

**OREGON ADMINISTRATIVE RULES
CHAPTER 331, DIVISION 601-650
TEMPORARY ADMINISTRATIVE RULES
OCTOBER 15, 2011 EDITION**



OREGON HEALTH LICENSING AGENCY

700 Summer Street NE Suite 320 – Salem, OR 97301-1287
Voice: 503-378-8667 Fax: 503-370-9004

E-Mail: ohla.info@state.or.us
Website: <http://www.oregon.gov/OHLA>

Division 601
General Administration

331-601-0000

Definitions

The following definitions apply to OAR 331-610-0000 through 331-650-0010.

(1) "Advisory Council" means, pursuant to ORS 694.165, the entity that advises the agency in matters relating the practice of hearing aid dispensing in accordance with ORS 694.170. The agency director controls the regulatory operations and has decision-making authority on all substantive matters.

(2) "Agency" means the Health Licensing Agency. The agency is responsible for the budget, personnel, performance-based outcomes, consumer protection, fee collection, mediation, complaint resolution, discipline, rulemaking and record keeping.

(3) "Application" means an original document provided by the agency, bearing an original signature of the applicant.

(4) "Application fee" means fee for processing application or reapplication for licensure, including administering an examination.

(5) "Assistive listening device" means a device that may meet the statutory definition of a hearing aid but has been determined by the agency not to be a hearing aid for the purposes of ORS 694 and OAR 331, divisions 610 through 650.

(6) "Audiologist" means a person licensed under ORS 681 and who practices audiology as defined by that statute.

(7) "Consummation of sale" means when the purchaser takes delivery or possession of the hearing aid after agreeing to purchase the hearing aid.

(8) "Demonstration instrument" means a hearing aid that has been worn by a prospective user as part of a bona fide hearing aid evaluation conducted in the presence of the hearing aid specialist.

(9) "Delivery" means, as used in ORS 694.042(2), acceptance and possession of the hearing aids by the consumer, which starts the 30 calendar day rescission right period. Hearing aids that have been out of the consumer's possession for a period of 72 hours or more for any alternation or adjustment during the 30 calendar day rescission right period restarts the 30 calendar day rescission right period. Delivery includes:

(a) The initial fitting and delivery of the hearing aid(s) must be performed in person by a licensed hearing aid specialist, including the acceptance and possession of the hearing aid(s);

(b) Return of hearing aid by the consumer to the specialist may be hand carried or mailed by certified mail to the official place of business of the hearing aid specialist.

(10) "Direct supervision" means the supervisor is present in the facility for the purpose of supervising and in view the procedures performed by a registered trainee who has not completed the training requirements stated in OAR 331-610-0010.

(11) "Director" means the individual who is responsible for the performance of the agency as defined in ORS 676.610. The director appoints all subordinate officers and employees to carry out the duties of the agency.

(12) "Equivalent" means comparable but not identical, covering the same subject matter.

(13) "Facility" means physical place of business where services defined in ORS 694.015(4) are conducted, including but not limited to all areas used by hearing aid dealer specialist and client, i.e. testing location, waiting/reception area.

(14) "Health Licensing Office" means the agency.

(15) "Hearing aid" as defined in ORS 694.015(3) does not mean assistive listening devices as set forth in OAR 331-640-0000.

(16) "High level disinfectant" means a chemical agent, which has demonstrated tuberculocidal activity.

(17) "Indirect supervision" means the supervisor is not required to be on the premises while the procedures are performed by a temporary hearing aid specialist.

(18) "Licensed" means the authority to practice pursuant to ORS 694.025, which has not been revoked or expired without renewal.

(19) "Place or places of business" means the name, mailing address, telephone number and location where the licensee deals in hearing aids.

(20) "Probation" means continuation of licensure under conditions set by the agency.

(21) "Public view" means open to view and easy for the public to see.

(22) "Purchase price" means:

(a) The total amount paid or agreed to be paid by or on behalf of the consumer includes the cost of the hearing aid(s) and related professional fees.

(b) Professional fees shall include fees charged for the actual fitting and sale of the hearing aid(s):

(A) The evaluation or measurement of the powers or range of human hearing as they relate to hearing aid fitting;

(B) Hearing aid evaluation;

(C) Hearing aid consultation;

(D) Hearing aid recommendation;

(E) Hearing aid selection;

(F) Hearing aid fitting and dispensing;

(G) Adaptation of a hearing aid, if related to the original purchase;

(H) Counseling, if related to the original purchase and done by the person dealing in hearing aids and/or company, firm or facility involved in dispensing of the original hearing aid, and any other fees for service which are charged in regards to a hearing aid being fitted as a therapeutic device;

(I) Ear impression and ear molds.

(c) Professional fees charged for diagnostic testing for medical use when done by a physician or on a physician's order shall be excluded from this definition of professional fees.

(23) "Reconditioned" means a used hearing aid that has been rebuilt or is a hearing aid that consists of both old and new parts.

(24) "Renew" means to extend a current license for two years beyond expiration or to bring an inactive license to current, active status.

(25) "Used hearing aid" means any hearing aid that has been worn for any period of time, except where the hearing aid is defined as a demonstration instrument in OAR 331-601-0000(8).

(26) "Temporary hearing aid specialist" means an individual who has applied for and received a provisional license to work under the supervision of a licensed hearing aid specialist.

Stat. Auth.: ORS 676.615, 694.155, 694.170

Stats. Implemented: ORS 676.615, 694.155, 694.170

Hist.: HD 12, f. 4-20-72, ef. 5-1-72; HD 13-1984, f. & ef. 6-28-84; Renumbered from 333-025-0025; HD 8-1986, f. & ef.

5-29-86; HD 11-1987, f. & ef. 7-28-87; HD 8-1990, f. 4-4-90, cert. ef. 4-5-90; HD 23-1993, f. 12-30-93, cert. ef. 1-1-94; HD

18-1997, f. 12-12-97, cert. ef. 12-15-97; Renumbered from 333-025-0000, HLO 6-2004, f. 6-29-04, cert. ef. 7-1-04

331-601-0010

Fees

(1) Applicants and licensees are subject to the provisions of OAR 331-010-0010 and 331-010-0020 regarding the payment of fees, penalties and charges.

(2) Fees established by the Oregon Health Licensing Agency are as follows:

(a) Application:

(A) License: \$125.

(B) Temporary license: \$150.

(C) Trainee registration: \$100.

(b) Examination:

(A) Oregon laws & rules: \$50.

(B) Written: \$150.

(C) Practical: \$175.

(D) Audiologist: \$50.

(c) Original issuance of license:

(A) License: \$125 for one year.

(B) Temporary license: \$100.

(d) Renewal of license: \$125 for one year.

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(e) Delinquent (late) renewal of license: \$25 for the first month in expired status, and \$10 each month thereafter while in an expired status.

(f) Replacement of license, including name change: \$25.

(h) Duplicate license document: \$25 per copy with maximum of three.

(i) Affidavit of licensure: \$50.

(j) An additional \$25 administrative processing fee will be assessed if a NSF or non-negotiable instrument is received for payment of fees, penalties and charges. Refer to OAR 331-010-0010.

Stat. Auth.: ORS 676.605, 676.615, 694.155, 694.185

Stats. Implemented: ORS 676.605, 676.615, 694.155, 694.185

Hist.: HD 24-1985(Temp), f. & ef. 10-17-85; HD 33-1985, f. & ef. 12-13-85; HD 8-1990, f. 4-4-90, cert. ef. 4-5-90; HD 14-1990, f. 6-1-90, cert. ef. 7-1-90; HD 17-1990(Temp), f. 6-15-90, cert. ef. 7-1-90; HD 21-1990(Temp), f. & cert. ef. 7-3-90; HD 22-1990, f. & cert. ef. 8-15-90; HD 14-1991(Temp), f. 9-30-91, cert. ef. 10-1-91; HD 21-1991, f. & cert. ef. 12-31-91; HD 18-1997, f. 12-12-97, cert. ef. 12-15-97; OHD 9-1999, f. & cert. ef. 11-15-99; OHD 10-2000, f. & cert. ef. 11-15-00: Renumbered from 333-025-0005, HLO 6-2004, f. 6-29-04, cert. ef. 7-1-04

Division 610
Training and Qualifications

331-610-0000

Qualification Pathways

To obtain an Oregon hearing aid specialist license, a person must provide completed application documentation prescribed by the agency pursuant to OAR 331-030-0000 and 331-620-0000, provide satisfactory evidence of meeting certification requirements, which includes qualifying criteria listed in one of the following certification pathways, and submit payment of all required fees.

(1) *TRAINEE REGISTRATION*: An applicant for trainee registration must submit a completed *Training Registration Agreement, Declaration of Responsibility* required by ORS 694.065(2), and complete core competencies pursuant to OAR 331-610-0010. Documentation must be submitted on agency prescribed forms.

(2) *AUDIOLOGIST*: An applicant must submit a copy of an Oregon state audiologist license, copy of American Speech and Hearing Association certification in audiology, or copy of official transcripts from an accredited training program in audiology.

(3) *OUT-OF-STATE LICENSURE*: An applicant must provide documentation, in the form of an *Affidavit of Licensure*, submitted directly to the agency from the originating state's regulatory office, evidencing that the applicant currently holds or held a hearing aid specialist license within three years immediately prior to the application date and that the licensee has not been subject to disciplinary action involving suspension or revocation, or no action is currently pending against the licensee, and no civil penalties are outstanding against the licensee.

(4) *QUALIFYING CREDENTIALS*: An applicant must provide documentation evidencing qualification for examination and licensure as a hearing aid specialist. Such documentation may include a copy of certification by the American Board of Otolaryngology, a physician's license showing American Board of Otolaryngology certification, or, a copy of certification from the National Board for Certification in Hearing Instrument Sciences.

Stat. Auth.: ORS 676.605, 676.615, 694.065, 694.155, 694.170

Stats. Implemented: ORS 676.605, 676.615, 694.065, 694.155, 694.170

Hist.: Hist.: HD 24-1985(Temp), f. & ef. 10-17-85; HD 33-1985, f. & ef. 12-13-85; HD 8-1990, f. 4-4-90, cert. ef. 4-5-90; HD 14-1990, f. 6-1-90, cert. ef. 7-1-90; HD 17-1990(Temp), f. 6-15-90, cert. ef. 7-1-90; HD 21-1990(Temp), f. & cert. ef. 7-3-90; HD 22-1990, f. & cert. ef. 8-15-90; HD 14-1991(Temp), f. 9-30-91, cert. ef. 10-1-91; HD 21-1991, f. & cert. ef. 12-31-91; HD 18-1997, f. 12-12-97, cert. ef. 12-15-97; OHD 9-1999, f. & cert. ef. 11-15-99; OHD 10-2000, f. & cert. ef. 11-15-00; Renumbered from 333-025-0005(5)-(9), HLO 6-2004, f. 6-29-04, cert. ef. 7-1-04

331-610-0010

Training and/or Experience Requirements

To be approved by the agency, a hearing aid specialist training program must include at least 62 hours of theory and 98 hours of practical experience which must include at least 30 completed procedures covering all of the requirements for audiometric testing, earmold impressions, hearing aid selection, fitting and follow up care, and infection control and cleanliness. A training program must include the following core competencies for hearing aid fitting:

- (1) Basic Knowledge - Theory Hours 15;
 - (a) General principals of acoustics and hearing/speech acoustics;
 - (b) Conductive and sensory-neural disorders of hearing;
 - (c) The human ear: external, middle, and inner;
 - (d) Applicable Oregon Revised Statutes and Oregon Administrative Rules;
- (2) Hearing aid standards - Theory Hours 15;
 - (a) American National Standards Institute;
 - (b) Food and Drug Administration;
- (3) Audiometric Testing - Theory Hours 10, Practical Hours 35;
 - (a) Basic equipment check; adequate test environment;
 - (b) Otoscope technique/client management;
 - (c) Puretone audiometry; air conduction and bone conduction and recording audiograms;
 - (d) Masking: air conduction and bone conduction;
 - (e) Speech reception threshold;

- (f) Most comfortable loudness level;
- (g) Uncomfortable loudness level;
- (h) Speech audiometry;
- (4) Earmold impressions - Theory Hours 5, Practical Hours 15;
- (a) Instructions to client;
- (b) Otoscopic inspection;
- (c) Dam placement and verification;
- (d) Impression material preparation and insertion;
- (e) Impression removal and evaluation;
- (f) Impression handling and preparation for transport;
- (5) Hearing aid selection, fitting and follow up care - Theory Hours 15, Practical Hours 45;
- (a) Acoustic couplers;
- (b) Hearing aid components;
- (c) Physical characteristics of hearing aids;
- (d) Electro-acoustic characteristics of hearing aids;
- (e) Problem solving;
- (f) Hearing aid modification and adaptation;
- (g) Basic hearing aid repair;
- (6) Infection control and cleanliness - Theory Hours 2, Practical Hours 3;
- (a) Disinfection;
- (b) Single use disposable items;
- (c) Hand washing;

Stat. Auth.: ORS 676.615, 694.065, 694.155, 694.170

Stats. Implemented: ORS 676.615, 694.065, 694.155, 694.170

Hist.: HD 8-1986, f. & ef. 5-29-86; HD 8-1990, f. 4-4-90, cert. ef. 4-5-90; HD 23-1993, f. 12-30-93, cert. ef. 1-1-94; HD 18-1997, f. 12-12-97, cert. ef. 12-15-97; Renumbered from 333-025-0008, HLO 6-2004, f. 6-29-04, cert. ef. 7-1-04

331-610-0020

Trainee Registration

- (1) A trainee, registered under ORS 694.065(1) may deal in hearing aids under the direct supervision of a designated supervisor except that a trainee may not fit or sell hearing aids.
- (2) The agency will authorize an Oregon licensed hearing aid specialist to act as designated supervisor of a trainee provided the licensee holds a valid license, has been actively practicing for at least three years, and has not had any disciplinary action or civil penalty imposed by the agency.
- (3) A licensed hearing aid specialist must not supervise more than four trainees at any one time.
- (4) A designated supervisor will not provide training as outlined in OAR 331-610-0010 until a trainee registration agreement and *Declaration Of Responsibility* has been submitted to the agency.
- (5) A designated supervisor must notify the agency in writing within five calendar days if the trainee is no longer being supervised and trained, and must provide a *Certification of Training* form to the agency showing the number of hours of training completed.
- (6) A designated supervisor's authorization may be withdrawn for providing incomplete or inadequate training, falsifying documentation, or allowing the trainee to fit or sell hearing aids.

Stat. Auth.: ORS 676.615, 694.155, 694.095, 694.170

Stats. Implemented: ORS 676.615, 694.155, 694.095, 694.170

Hist.: HD 13-1984, f. & ef. 6-28-84; HD 8-1986, f. & ef. 5-29-86; HD 8-1990, f. 4-4-90, cert. ef. 4-5-90; HD 23-1993, f. 12-30-93, cert. ef. 1-1-94; HD 18-1997, f. 12-12-97, cert. ef. 12-15-97; Renumbered from 333-025-0007(5)-(10), HLO 6-2004, f. 6-29-04, cert. ef. 7-1-04

331-610-0030

Supervision of Temporary Hearing Aid Specialists

(1) An individual who holds a valid Oregon hearing aid specialist license who has been actively practicing for at least three years and has not had any disciplinary action or civil penalty imposed by the agency, may act as a designated supervisor for a temporary licensee. A *Declaration of Responsibility* form, prescribed by the agency, must be signed and filed with the agency before supervising any temporary hearing aid specialist. The form must indicate the name of the supervising hearing aid specialist, place of business, telephone number, current license number, and the name, address, and license number of the temporary hearing aid specialist.

(2) The testing, fitting, or selling of a hearing aid by a temporary hearing aid specialist shall be performed under the authority, control, and indirect supervision of the licensed hearing aid specialist designated as the supervisor.

The designated supervisor must review and approve the temporary hearing aid specialist's work before ordering the recommended hearing aid(s).

(3) A designated supervisor shall exercise management, guidance, and control over the activities of the temporary hearing aid specialist; and shall exercise professional judgment and be responsible for all matters relative to the fitting and selling of a hearing aid.

(4) Approval of a temporary hearing aid specialist's work must be documented by the handwritten signature of the designated supervisor, license number, and date of review placed adjacent to the temporary hearing aid specialist's signature on any audiogram, order form, and office copy of a statement to a prospective hearing aid purchaser as required in ORS 694.036 and 694.042.

Stat. Auth.: ORS 676.615, 694.095, 694.155, 694.170

Stats. Implemented: ORS 676.615, 694.095, 694.155, 694.170

Hist.: HD 13-1984, f. & ef. 6-28-84; HD 8-1986, f. & ef. 5-29-86; HD 8-1990, f. 4-4-90, cert. ef. 4-5-90; HD 23-1993, f. 12-30-93, cert. ef. 1-1-94; HD 18-1997, f. 12-12-97, cert. ef. 12-15-97; Renumbered from 333-025-0007, HLO 6-2004, f. 6-29-04, cert. ef. 7-1-04

331-610-0040

Examination

(1) After the Health Licensing Office determines training and/or licensure qualifications have been met, applicants will be notified of their eligibility to take or schedule an examination. The examination consists of a written segment covering subjects set forth in ORS 694.075(1) and (3) and a practical or demonstration of skill segments pursuant to ORS 694.075(2).

(2) The written segment of the examination may be a national examination and will include questions covering Oregon law and rules regulating hearing aids.

(3) The examination shall be closed book, prepared and conducted in English.

(4) The practical segment of the examination consists of four sections: audiometric testing, masking, taking earmold impressions, and fitting hearing aids.

(5) Sections of both the written and practical segments of the examination shall be scored separately. The passing score for each section is 70% or above.

(6) Applicants, on initial examination, shall take all sections of both segments of the examination

(7) Applicants shall be mailed notification of the date, time and place of the examination at least 15 calendar days in advance.

(8) Applicants shall be required to provide photographic identification such as a driver's license, and their original Social Security card before being allowed entrance to the examination.

(9) Applicants failing the written segment of the examination shall be given information on examination appeal and/or rescoring procedures. Applicants shall initiate any request for rescoring of the written examination with the agency within 30 calendar days from the date of the notification of the examination results.

(10) Notwithstanding subsections (1) through (9) of this rule, Oregon licensed audiologists will be required to take and pass only the Oregon laws and rules section of the written examination.

(11) Examinations are scheduled at a date and time established by the agency.

Stat. Auth.: ORS 676.605, 676.615, 694.065, 694.075, 694.155, 694.170

Stats. Implemented: ORS 676.605, 676.615, 694.065, 694.075, 694.155, 694.170

Hist.: HB 144, f. 6-27-60; HD 8-1986, f. & ef. 5-29-86; HD 8-1990, f. 4-4-90, cert. ef. 4-5-90; HD 27-1990(Temp), f. & cert. ef. 12-31-90; HD 3-1991, f. 3-15-91, cert. ef. 4-1-91; HD 23-1993, f. 12-30-93, cert. ef. 1-1-94; HD 17-1994(Temp), f. & cert. ef. 6-15-94; HD 26-1994, f. 9-29-94, cert. ef. 10-1-94; HD 18-1997, f. 12-12-97, cert. ef. 12-15-97; Renumbered from 333-025-0004(1)-(10); HLO 6-2004, f. 6-29-04, cert. ef. 7-1-04

331-610-0050

Examination Conduct; Disqualification

(1) Examinations are conducted in a designated area with restricted access.

Authorization must be provided by the agency before bringing any material or electronic equipment or devices into the examination. Receiving or attempting to receive assistance during the examination, including assistance from other individuals, from notes books or devices or taking unauthorized items into the examination area shall invalidate the examination and result in forfeiture of the examination and fees.

(2) Examination Disqualification: A candidate may be immediately disqualified during or after the examination for conduct that interferes with the examination. Such conduct includes:

(a) Giving or attempting to give assistance to others in answering questions during the examination;

(b) Receiving or attempting to receive assistance during the examination, including assistance from other individuals from notes, books or devices to answer questions;

(c) Removing or attempting to remove any secure examination-related information, notes, or materials from the examination site;

(d) Failing to follow directions relative to the conduct of the examination;

(e) Exhibiting behavior which impedes the normal progress of the examination; and

(f) Endangering the health or safety of a person involved in the examination.

(3) Disqualification will invalidate the examination and result in forfeiture of the examination and fees. The candidate will be required to reapply, submit additional examination fees, and request in writing to schedule another examination. Reexamination will be scheduled at a date, time and place determined by the Director following the date of disqualification.

Stat. Auth.: ORS 676.605, 676.615, 694.065 & 694.155

Stats. Implemented: ORS 676.605, 676.615, 694.065 & 694.155

Hist.: HB 144, f. 6-27-60; HD 8-1986, f. & ef. 5-29-86; HD 8-1990, f. 4-4-90, cert. ef. 4-5-90; HD 27-1990(Temp), f. & cert. ef. 12-31-90; HD 3-1991, f. 3-15-91, cert. ef. 4-1-91; HD 23-1993, f. 12-30-93, cert. ef. 1-1-94; HD 17-1994(Temp), f. & cert. ef. 6-15-94; HD 26-1994, f. 9-29-94, cert. ef. 10-1-94; HD 18-1997, f. 12-12-97, cert. ef. 12-15-97; Renumbered from 333-025-0004(11)-(13); HLO 6-2004, f. 6-29-04, cert. ef. 7-1-04

**Division 620
Licensure and Renewal**

331-620-0000

Application Requirements

(1) Individuals applying for licensure to practice as a Hearing Aid Specialist must meet the requirements of OAR 331-030-0000 and 331-030-0020, in addition to the remaining requirements of this rule.

(2) Applicants must submit an application form prescribed by the agency, which shall contain information listed in OAR 331-030-0000(5), be accompanied by payment of the appropriate fees, and include documentation evidencing completion of necessary training and/or licensure, according to one of the qualification pathways listed in OAR 331-610-0000(1) through (4).

(3) Application(s) for examination must be received by the agency at least 30 calendar days before the scheduled examination date, in order to be processed and eligible for examination.

Stat. Auth.: ORS 676.615, 694.055, 694.155

Stats. Implemented: ORS 676.615, 694.055, 694.155

Hist.: HB 144, f. 6-27-60; HD 13, 1984, f. & ef. 6-28-84; HD 8-1986, f. & ef. 5-29-86; HD 8-1990, f. 4-4-90, cert. ef. 4-5-90; HD 27-1990(Temp), f. & cert. ef. 12-31-90; HD 3-1991, f. 3-15-91, cert. ef. 4-1-91; HD 23-1993, f. 12-30-93, cert. ef. 1-1-94; HD 18-1997, f. 12-12-97, cert. ef. 12-15-97; Renumbered from 333-025-0002, HLO 6-2004, f. 6-29-04, cert. ef. 7-1-04

331-620-0010

Temporary License

(1) A temporary license may be issued to an applicant who meets the application requirements of ORS 694.065(2) and OAR 331-610-0000(1) and (3) following agency receipt of a completed application and evidence of training, or *Affidavit of Licensure* from another state, and the required fee(s).

(2) The temporary license will be issued for a one-year period, expiring on the last day of the month one year from the date of issuance.

(3) Attainment of permanent licensure status by satisfactorily passing the examination supersedes the temporary hearing aid specialist license.

(4) A temporary license holder may change their designated supervisor if a new *Declaration of Responsibility* form is signed by the new supervisor and submitted with the application fee to the agency within five days of separation from the former designated supervisor.

Stat. Auth.: ORS 676.615, 694.095, 694.155

Stats. Implemented: ORS 676.615, 694.095, 694.155

Hist.: HB 144, f. 6-27-60; HD 8-1986, f. & ef. 5-29-86; HD 8-1990, f. 4-4-90, cert. ef. 4-5-90; HD 27-1990(Temp), f. & cert. ef. 12-31-90; HD 3-1991, f. 3-15-91, cert. ef. 4-1-91; HD 23-1993, f. 12-30-93, cert. ef. 1-1-94; HD 18-1997, f. 12-12-97, cert. ef. 12-15-97; Renumbered from 333-025-0006, HLO 6-2004, f. 6-29-04, cert. ef. 7-1-04

DIVISION 620
LICENSURE AND RENEWAL

331-620-0020

Licensure

(1) Licensees are subject to the provisions of OAR 331-030-0010 regarding the issuance and renewal of a license, and to the provisions of OAR 331-030-0020 regarding the authorization to practice, identification, and the requirements for issuance of a duplicate authorization.

(2) A license renewal application received by the agency or postmarked after a license has expired but within three years from the expiration date, may be approved upon payment of the renewal and delinquency fees and attestation of having obtained required continuing education pursuant to OAR 331-630-0000.

(3) A person who fails to renew within three years following the date of expiration may be granted a license upon reapplication, payment of required fees, and successful passage of the written and practical examination required by OAR 331-610-0040. Upon passing the examination the original license number will be reinstated and a license issued.

(4) All license holders must obtain 24 contact hours of continuing education training every two years as a condition of renewal whether the license is active or inactive.

(5) Evidence of required continuing education must be provided at the time of renewal by means of a prescribed self-attestation form certifying participation in approved continuing education.

(6) Appropriate documentation required in OAR 331-630-0000 must be accumulated and held by the license holder for a period of two years following renewal, or until submitted to the agency at the time of audit within the two-year period.

Stat. Auth.: ORS 676.605, 676.615, 694.085, 694.124, 694.125, 694.155

Stats. Implemented: ORS 676.605, 676.615, 694.085, 694.124, 694.125, 694.155

Hist.: HD 8-1990, f. 4-4-90, cert. ef. 4-5-90; HD 3-1991, f. 3-15-91, cert. ef. 4-1-91; HD 23-1993, f. 12-30-93, cert. ef. 1-1-94;

Renumbered from 333-025-0009, HLO 6-2004, f. 6-29-04, cert. ef. 7-1-04

Division 630
Continuing Education

331-630-0000

Continuing Education Requirements

(1) After October 1, 2009, all licensees submitting application for renewal must have completed 24 contact hours of approved continuing education during the proceeding two years.

(2) A licensee must report compliance with continuing education requirements through attestation on the license renewal document. Licensees will be subject to provisions of OAR 331-630-0010 pertaining to periodic audit of continuing education.

(3) Approved continuing education includes, at the agency's discretion:

(a) Participation or attendance at an instructional program presented, recognized, or under the auspices of any institution, agency, professional organization or association, or licensees or hearing aid manufacturers and approved by the agency.

(b) Education in subject matter related specifically to hearing or hearing aid technology, related health care, or laws and rules governing hearing aid dispensing. Approved subject matter may include but not be limited to the following: anatomy and physiology, disorders of hearing, audiology, habilitation and counseling, physics of sound, safety and sanitation, practice management, ethics, first aid, CPR, AIDS training for health care workers and ORS 694 and OAR 331, divisions 601 through 650.

(c) Education in subject matter that advances the licensee's knowledge and skills to benefit the hearing impaired public.

(d) Credit will be limited to three hours collectively per year for subjects relating to practice management, ethics, sales, first aid, CPR and AIDS training. Licensees may not receive credit for repeat of courses taken within the same continuing education reporting period.

(4) The agency will maintain a list of approved continuing education programs. The list will be available upon request to the agency.

(5) For each college "credit hour", 12 continuing education contact hours will be recognized.

(6) To receive prior approval of a continuing education program, an individual or group sponsor must submit a written request to the agency, at least 30 days prior to the first scheduled presentation. The documentation required for agency review includes:

(a) An outline of the subject matter to be covered;

(b) Method of presentation;

(c) Qualifications of person or persons presenting instruction;

(d) Estimated duration;

(e) Criteria for positive achievement, e.g., examination, attendance, participation by written or oral report; and

(f) Statement of how the program relates to a licensee's knowledge and skills and how it benefits the hearing impaired public.

(7) The agency, in consultation with the Advisory Council on Hearing Aids or a standing subcommittee of the Council, will determine if the continued education program meets criteria for approval. The agency will establish the number of hours it will recognize or accept for programs obtaining prior approval of the agency.

(8) The agency will notify the program or course sponsor in writing of its determination regarding continuing education including, as applicable, acceptable credit or contact hours and explain any denial of the program or adjustment to creditable hours.

(9) Approval of a continuing education program may be retained for a maximum of two years, at which time the sponsor will be required to resubmit the documentation listed in subsection (6) of this rule to continue agency approval of the program.

(10) The agency may withdraw approval of a continuing education program if it is determined that:

(a) The program teaching method or content has changed significantly without notice to the agency;

(b) A certificate of participation was not issued to an individual who completed the program in accordance with the standards provided to the agency; or

(c) A certificate of participation was issued to an individual who did not complete the program in accordance with the standards provided to the agency.

(11) Evidence of participation in required continuing education is the responsibility of the hearing aid specialist. Evidence of participation must include the documentation listed in OAR 331-630-0010.

(12) Hours obtained in excess of the 24 contact hours required every two years will not be carried forward as continuing education credit for the succeeding reporting period.

(13) Continuing education requirements apply whether the renewal applicant is living or working within Oregon or outside of the state, if Oregon licensure is maintained.

Stat. Auth.: ORS 676.605, 676.615, 694.125, 694.155

Stats. Implemented: ORS 676.605, 676.615, 694.125, 694.155

Hist.: HD 8-1986, f. & ef. 5-29-86; HD 8-1990, f. 4-4-90, cert. ef. 4-5-90; HD 27-1990(Temp), f. & cert. ef. 12-31-90; HD 3-1991, f. 3-15-91, cert. ef. 4-1-91; HD 23-1993, f. 12-30-93, cert. ef. 1-1-94; HD 18-1997, f. 12-12-97, cert. ef. 12-15-97; enumbered from 333-025-0040, HLO 6-2004, f. 6-29-04, cert. ef. 7-1-04

331-630-0010

Continuing Education: Audit, Required Documentation and Sanctions

(1) The Health Licensing Office will audit a select percentage of licenses determined by the Council to verify compliance with continuing education requirements.

(2) Licensees notified of selection for audit of continuing education attestation shall submit to the agency, within 30 calendar days from the date of notification, satisfactory evidence of participation in required continuing education in accordance with OAR 331-630-0000.

(3) Documentation of a certificate of completion of attendance at a program or course provided by the sponsor must include:

(a) Name of sponsoring institution/association or organization;

(b) Title of presentation and description of content;

(c) Name of instructor or presenter;

(d) Date of attendance and duration in hours;

(e) Course agenda;

(f) Official transcript, diploma, certificate, statement or affidavit from the sponsor, attesting to attendance.

(4) If documentation of continuing education is invalid or incomplete, the licensee must correct the deficiency within 30 calendar days from the date of notice. Failure to correct the deficiency within the prescribed time shall constitute grounds for disciplinary action.

(5) Misrepresentation of continuing education, or failing to meet continuing education requirements or documentation may result in disciplinary action, which may include, but is not limited to assessment of a civil fine and suspension or revocation of the license.

Stat. Auth.: ORS 676.605, 676.615, 694.125, 694.155

Stats. Implemented: ORS 676.605, 676.615, 694.125, 694.155

Hist.: HLO 6-2004, f. 6-29-04, cert. ef. 7-1-04

Division 640
Practice Standards

331-640-0000

Assistive Listening Devices

Assistive listening devices which are exempt from the provisions of ORS Chapter 694 are defined as products designed to solve one or more specific listening problems created by a hearing loss, and include personal or group listening devices, telephone listening devices, or alert/alarm systems. The primary difference between listening devices and hearing aids is that an assistive listening device is designed to assist in only one, or a few, listening environments, and is for temporary use only. A hearing aid is designed for use in a wide range of listening environments and is primarily for full time use. The following criteria shall be considered in categorizing an assistive listening device:

(1) Personal Assistive Listening Device:

(a) Is used for the assistance of only one person;

(b) May be used either hardwired or wireless type;

(c) May be adaptable to particular environments;

(d) May not be fitted to an individual hearing loss;

(e) May not be sold as a standard hearing aid;

(f) May be an external option that will work with a hearing aid either through the telecoil or by direct audio input coupler built into a hearing aid.

(2) Group Assistive Listening Device:

(a) Includes infrared and FM systems and induction loop systems;

(b) Includes auditory trainers that are classified as such by the FDA exemption for group auditory trainers (21 CFR 801.421(e));

(c) May include telecaption decoders.

(3) Telephone Devices for the Hearing Impaired:

(a) Amplified handsets;

(b) In-line amplifiers for modular telephones;

(c) Receiver add-ons;

(d) An external option that will work with a hearing aid.

(4) Telecommunications Devices for the Deaf (TDD):

(a) Typically visually based;

(b) TDD and Teletypewriter for the deaf (TTY) systems.

(5) Alert/Alarm Systems:

(a) Systems that use a form of visual or vibratory stimuli to alert an individual;

(b) May be hardwired or use an acoustic pickup.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 676.615, 694.155

Stats. Implemented: ORS 676.615, 694.155

Hist.: HD 8-1986, f. & ef. 5-29-86; HD 8-1990, f. 4-4-90, cert. ef. 4-5-90; Renumbered from 333-025-0050, HLO 6-2004, f. 6-29-04, cert. ef. 7-1-04

331-640-0010

Safety and Infection Control
Requirements

(1) Each licensee shall keep areas of their facility for otoscopic examination, earmold impression taking, and audiometric examination clean and sanitary.

(2) Impression tools, otoscopic examination equipment and other devices that come in direct contact with the client must be disinfected prior to use. Licensees shall use an EPA registered high-level disinfectant, following the manufacturer's directions, to disinfect nondisposable equipment and tools.

(3) Disposable or disinfected otoscopic specula must be used when examining each ear.

(4) Licensees must wash or sanitize hands prior to taking an earmold impression.

(5) Licensees must observe the Universal Precautions as defined in Oregon Administrative Rule 437-002-0360(25), and 29 CFR 1910.1030 standards, when providing services to consumers. Universal Precautions describe an approach to infection control that assumes exposure to all human blood and specified human body fluids are infectious for HIV, HBV and other blood borne pathogens. Precautions to reduce the likelihood of exposure include hand washing, gloving, using personal protective equipment, preventing injury, ensuring proper handling and disposal of needles and other sharp instruments and of products or equipment contaminated with blood and body fluids.

Stat. Auth.: ORS 676.615, 694.155

Stats. Implemented: ORS 676.615, 694.155

Hist.: HD 23-1993, f. 12-30-93, cert. ef. 1-1-94; Renumbered from 333-025-0014, HLO 6-2004, f. 6-29-04, cert. ef. 7-1-04

331-640-0020

Audiometric Testing Equipment

Licensed hearing aid specialists shall maintain audiometric testing equipment, currently used in the practice of administering evaluations, in proper working order at all times and shall be prepared to provide their record of at least annual calibration to a representative of the agency when so requested, upon inspection, or during an investigation conducted by the agency.

Stat. Auth.: ORS 676.615, 694.155

Stats. Implemented: ORS 676.615, 694.155

Hist.: HD 8-1990, f. 4-4-90, cert. ef. 4-5-90; HD 23-1993, f. 12-30-93, cert. ef. 1-1-94; Renumbered from 333-025-0027, HLO 6-2004, f. 6-29-04, cert. ef. 7-1-04

331-640-0030

Statement to Prospective Purchaser

(1) The term "purchaser" as used in ORS chapter 694 and OAR chapter 331, division 640, means any person who purchases or proposes to purchase hearing aid(s) and any person on whose behalf hearing aid(s) are purchased or proposed to be purchased. In the case of a client who is a minor child or other person without legal capacity to contract, the person's parent, legal guardian, or legal representative is the "purchaser."

(2) To assist prospective purchasers in making an informed decision regarding the sale of hearing aid(s), licensees must provide prospective purchasers with complete and accurate disclosure of facts regarding licensee services, the hearing aid(s) purchase price, delivery and consummation of sale defined in OAR 331-601-0000, and information about the purchaser's right to rescind or cancel a sale and the procedures for rescinding the sale and returning the hearing aid(s) according to the provisions of ORS 694.042.

(3) The *Statement to Prospective Purchaser (Statement)* is a contract prepared and signed by the licensee and agreed to by the purchaser. This *Statement* contains required information listed in ORS 694.036 regarding licensee and purchaser information, medical observation criteria and referral to physician if medical conditions are present, specifications and conditions of the hearing aid(s), terms of any warranty or expressed guarantee, and how to file a complaint with the agency.

(4) Licensees are required to provide all information and facts specified in this rule before the consummation of the sale, which is the delivery of the hearing aid(s) to the purchaser and the date that starts the 30-day rescission period.

(5) **Statement Content.** In addition to the information prescribed by ORS 694.036, the *Statement* must include the following information and facts about the purchase of hearing aid(s):

- (a) Date of sale;
- (b) Purchaser name, address and signature;
- (c) Licensee name, address, telephone number, license number and signature;
- (d) The purchase price, which includes the cost of the hearing aid(s) and all related fees;
- (e) An accurate description of the hearing aid as new, demonstration instrument, reconditioned, or used;
- (f) Delivery date of hearing aid(s);
- (g) Date the 30-day rescission period ends;
- (h) The portion of the total purchase price that will be retained by the licensee, not to exceed 10% of the contract purchase amount or \$250 per hearing aid, whichever amount is less, if the purchaser rescinds the sale under provisions of ORS 694.042 within the 30-day rescission period;

(i) Date and place of post-delivery follow-up session agreed upon by the licensee and hearing aid user as stated in subsection (9) of this rule;

(j) A printed or reproduced copy of *ORS 694.042 Right to Rescind A Hearing Aid Purchase* in its entirety, which includes the procedures for returning the hearing aid(s) to the licensee;

(k) The following statement, initialed by the purchaser: "Copies of my audiogram and the results of tests or verification procedures were offered to me by the licensee, and I hereby acknowledge receipt of the records or that I declined the offer.";

(l) The following statement about filing complaints: "Complaints regarding the sale, lease, or attempted sale or lease of hearing aids should be directed in writing to: Oregon Health Licensing Agency, 700 Summer Street NE, Suite 320, Salem, OR 97301-1287. Complaint forms may be obtained by calling 503-378-8667 or at the Agency's Web site:

http://www.oregon.gov/OHLA/Consumer_help_complaint.shtml"; and

(m) A statement acknowledging that the purchaser has read and understands the information contained in the *Statement*, signed by the purchaser and dated;

(6) **Statement Format.** The *Statement* must be printed on forms measuring no less than 8 ½ inches wide by 11 inches long, with a minimum 10-point typeset, and be legibly written.

(7) Licensees must provide the purchaser a new *Statement* for each hearing aid or set of hearing aids, unless the hearing aid(s) is an exact replacement of the device listed in a previous *Statement* provided to the purchaser.

(8) **Refund.** Any monies paid by or on behalf of the purchaser toward the hearing aid must be refunded to the payer if the delivery of the hearing aid to the purchaser is cancelled. The purchaser shall incur no additional liability for the cancellation.

(9) **Post Delivery Follow-Up.** Licensees will conduct and document a minimum of one post-delivery follow-up session with the hearing aid user before the expiration of the 30-day rescission period. The follow-up session will take place at the original place of the sale or at a predetermined location agreed upon at the time of initial delivery, or at a time and place agreed to within the 30-day rescission period.

(b) The licensee must document in the hearing aid user's record any change to the agreed-upon location or date of the post-delivery follow-up session, and, if the licensee is unable to contact the hearing aid user or to provide the follow-up session, the reason(s) why.

(10) **In Home Sales.** Sales of hearing aids made at the purchaser's residence and not at the licensee's place of business, require disclosure of federal guidelines related to "*in home sales*" and the purchaser's right to cancel the transaction and receive a full refund of monies paid to the licensee. The following federal disclosure statement must be completed and affixed to the *Statement to Prospective Purchaser* when a licensee sells a hearing aid(s) at the purchaser's home.

Date of Notice _____

NOTICE OF CANCELLATION

You may cancel this transaction, without any penalty or obligations, within three business days from the above date. If you cancel, any property traded in any payments made by you under the contract of sale, and any negotiable instrument executed by you will be returned within 10 business days following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be canceled.

If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale; or you may if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller's expense and risk.

If you do make the goods available to the seller and the seller does not pick them up within 20 days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation. If you fail to make the goods available to the seller, or if you agree to return the goods to the seller and fail to do so, then you remain liable for performance of all obligations under the contract.

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice or any other written notice or send a telegram to:

Name of Seller: _____

Seller's Place of Business _____

I HEREBY CANCEL THIS TRANSACTION

Purchaser's signature and date _____

Stat. Auth.: ORS 676.605, 676.615, 694.036, 694.042, 694.155, 694.170
Stats. Implemented: ORS 676.605, 676.615, 694.036, 694.042, 694.155, 694.170
Hist.: HD 8-1986, f. & ef. 5-29-86; HD 8-1990, f. 4-4-90, cert. ef. 4-5-90; HD 23-1993, f. 12-30-93, cert. ef. 1-1-94; Renumbered from 333-025-0065, HLO 6-2004, f. 6-29-04, cert. ef. 7-1-04

331-640-0040

Additional Conditions for Referral

(1) In addition to the conditions listed in ORS 694.142 a hearing aid specialist shall not fit or dispense a hearing aid for use without first determining if the following conditions exist and, if so, referring the prospective purchaser to a physician:

(a) Evidence of significant cerumen accumulation in the auditory canal preventing visual inspection of the external auditory canal or external auditory meatus and tympanic membrane or foreign body in the ear canal; or

(b) Pain or discomfort in the ear.

(2) A *Waiver of Medical Opinion* form as required by ORS 694.142(6) must include the hearing aid specialist's name and license number, the purchaser's name, address and signature with date as well as the following statement:

"I do not desire to have a medical evaluation before purchasing a hearing aid."

Stat. Auth.: ORS 694.142, 694.155, 694.170

Stats. Implemented: ORS 694.142, 694.155, 694.170

Hist.: HD 8-1990, f. 4-4-90, cert. ef. 4-5-90; HD 23-1993, f. 12-30-93, cert. ef. 1-1-94; Renumbered from 333-025-0029, HLO 6-2004, f. 6-29-04, cert. ef. 7-1-04

331-640-0050

Additional Standards of Conduct

(1) Licensees must comply with the requirements of ORS 694.142, and all other applicable statutes and rules.

(2) Licensees must conform to state or federal laws regulating retail contracts or to any affirmation of fact or promise made in writing by the licensee which relates to the hearing aid or fitting and dispensing services and which becomes a part of the basis of the transaction when the purchaser relies on it or is, in part, induced into making purchase by it.

(3) Licensees must not make inaccurate or misleading representations or statements as to the efficacy of a hearing aid(s) for improving hearing.

(4) Licensees may not use a title or abbreviation that is misleading or may convey that the licensee holds a credential that is not related to hearing instrument sciences, without designating the professional field for which the credential was issued. Hearing instrument sciences includes, but is not limited to, core competencies identified in ORS 694.075.

(5) The Council recognizes and adopts the revised International Hearing Society's Code of Ethics, adopted October 1983, as its professional standards model. A copy of the document is on file at the agency for review, and may be accessed at the following Web site:

http://insinfo.org/lhsV2/Resources/020_Code_Of_Ethics.cfm

(6) During the hearing test or evaluation for fitting a client with a hearing aid(s), the following items must be completed. If the case history and tests were completed within the previous six months and there has been no substantial change in the client's hearing, the following tests may be performed at the discretion of the licensee:

(a) Confidential client case history;

(b) Puretone Air Conduction Threshold testing (should include at a minimum, the following frequencies - 250, 500, 1000, 2000, 3000, 4000, and 6000 or 8000 Hz);

(c) Puretone Bone Conduction Threshold testing (should include at a minimum, the following frequencies - 500, 1000, 2000, and 4000 Hz);

(d) Speech Recognition Threshold testing (SRT);

(e) Word Recognition Score (WRS) also known as speech discrimination testing;

(f) Most Comfortable Listening Level (MCL); and

(g) Uncomfortable Listening Level (UCL).

(7) For children who are unable to perform the tests listed in subsection (6) of this rule, an objective measure that meets prevailing professional standards can be used to assess auditory function. The test must be completed by a licensed audiologist or physician.

(8) Licensees must perform one or more of the following verification procedures, within the 30-day rescission period.

(a) Soundfield testing for speech discrimination;

(b) Soundfield testing for puretone thresholds;

(c) Real-ear probe microphone measurements;

(d) Speech mapping; and

(e) Other industry accepted objective measures.

(9) Licensees must post the following statement in public view on the business premises or provide the purchaser with a written notice stating: *"Individuals are entitled to a copy of the audiogram used to conduct hearing evaluations and any test results."* If copies of the audiogram specified in OAR 331-640-0055, or results of tests or verification procedures conducted under subsections (6) and (8) of this rule are requested, they must be provided to the purchaser.

(10) Licensees who are unable to complete testing for reasons such as a client's medical condition or inability to perform tests or verification procedures are excused from compliance with the relevant parts of subsections (6) and (8) but must document the reasons in the client's record.

(11) Tests listed in subsection (8) of this rule will be used to determine the fitted hearing aid(s) ability to meet current industry standards in reference to ORS 694.042(1)(c), during investigation of complaints filed with the agency.

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Effective Date: October 15, 2011

(12) Licensees must maintain a record of the technical specifications issued by a manufacturer for the hearing aid(s) that have been delivered to or purchased by their clients. The specifications must be available for inspection by the agency's representatives upon request.

Stat. Auth.: ORS 676.605, 676.615, 694.155, 694.170

Stats. Implemented: ORS 676.605, 676.615, 694.155, 694.170

Hist. Hist.: HD 23-1993, f. 12-30-93, cert. ef. 1-1-94; Renumbered from 333-025-0012, HLO 6-2004, f. 6-29-04, cert. ef. 7-1-04

331-640-0055

Uniform Measurement Standards

(1) As of December 1, 2006, the Council recognizes and adopts the following uniform set of hearing loss measurement standards required for use when interpreting audiograms using 0 – 110 for degrees of decibel hearing loss (dB HL) and 125 – 8000 Hz for frequency. This set of uniform measurement standards must be used for advising consumers on peripheral or cochlear hearing loss:

Measurement Standards – Degrees of Decibel Hearing Loss (dB HL)		
Loss in dB HL	Degree of Loss	Description
0 -20	Normal	Within normal limits
21 – 40	Mild Loss	Faint or distant speech may be difficult to hear. Lip reading can be helpful.
41 – 55	Moderate Loss	Conversational speech can be understood at a distance of three to five feet. As much as 50% of discussions may be missed if the voices are faint or not in line of vision.
56 – 70	Moderately Severe	Speech must be loud in order to be understood; group discussions will be difficult to follow.
71 – 90	Severe Loss	Voices may be heard from a distance of about one (1) foot from the ear.
91 plus	Profound Loss	Loud sounds may be heard, but vibrations will be felt more than tones heard. Vision, rather than hearing, may be the primary mode for communication.

(2) Hearing loss may have a greater effect on children than adults. The degree of hearing loss does not necessarily reflect the degree of impairment.

(3) Audiologists licensed under ORS 681, and physicians licensed under ORS 677, may use prevailing professional measurement standards when counseling consumers or purchasers on the effect of hearing loss, in conformance with their training, professional license, code of ethics and practice standards.

Stat. Auth.: ORS 676.605, 694.036, 694.042, 694.1142, 694.155 & 694.170

Stats. Implemented: ORS 676.605, 676.607, 676.615

Hist.: HLA 1-2006, f. 8-31-06, cert. ef. 9-1-06

331-640-0060

Client Record Requirements

For the purpose of clarifying record keeping requirements, the term “client” as used in this rule, means the individual who is a consumer, purchaser, potential purchaser or hearing-aid wearer.

(1) **Required Records.** Licensees must record, update and maintain documentation for each client relevant to health history, clinical examinations and treatment, and financial data.

Documentation shall be written or computerized. Records must include the following information:

(a) Basic client information, including name, address, telephone number and dates of service;

(b) Health history relevant to hearing evaluation or fitting of a hearing aid(s), including referral to a physician or a *Waiver of Medical Opinion* form required by ORS 694.142(6);

(c) Identification of any conditions that would require referral to a physician licensed under ORS chapter 677, as required in ORS 694.142(1) and OAR 331-640-0040, and a notation that the client was referred;

(d) Audiograms as specified in OAR 331-640-0055 and results of tests or verification procedures as specified in OAR 331-640-0050;

(e) A copy of the *Statement to Prospective Purchaser* required by ORS 694.036 and OAR 331-640-0030, including client’s signature and date acknowledging that the client has read and understands the information contained in the purchase agreement;

(f) A copy of the Right to Rescind a Hearing Aid Purchase giving notice of rights under ORS 694.042; and

(g) Date and description of services rendered in the form of “chart notes”, including any complications. Chart notes must include the recorder’s initials, license number and professional title if multiple practitioners provide service to the client.

(2) **Record Format.** Records and documentation must be accurate, complete, and legible, typed or recorded using ink. Legible hand-written or electronic records are acceptable.

(3) **Record Identifiers.** Client records listed in subsection (1) of the rule, must include the licensee’s name, license number, professional title or abbreviation, and signature or initials somewhere on the documentation as a means of identifying the person who is providing service to the client. This information may be affixed to the record(s) in the form of a professional stamp or handwritten entry.

(4) **Record Retention.** All client records and documentation, written or archived electronically by computer, must be stored and maintained for a minimum of seven years after the licensee has last seen the client or past the age of minority, so that the records are safeguarded, readily retrievable, and available for inspection by the Oregon Health Licensing Agency’s representative.

Stat. Auth.: ORS 676.605, 694.036, 694.042, 694.1142, 694.155 & 694.170

Stats. Implemented: ORS 676.605, 676.607, 676.615

Hist.: HLA 1-2006, f. 8-31-06, cert. ef. 9-1-06

**Division 650
Discipline**

331-650-0000

Investigative Authority

The Health Licensing Office may initiate and conduct investigations of matters relating to the practice of hearing aid dispensing, pursuant to ORS 676.608 and 676.618, and may take appropriate disciplinary action in accordance with the provisions of ORS 676.612 and ORS 694.147.

Stat. Auth.: ORS 676.608, 676.618, 694.147, 694.155

Stats. Implemented: ORS 676.608, 676.618, 694.147, 694.155

Hist. HLO 6-2004, f. 6-29-04, cert. ef. 7-1-04

331-650-0010

Schedule of Civil Penalties for Violations of Laws and Rules

The agency has adopted the following presumptive penalty schedule for the violations of the following laws and rules. The following schedule shall apply except as the agency otherwise determines in consideration of the factors referred to in OAR 331-020-0060. For subsequent offenses, the provisions of OAR 331-020-0060 will apply.

(1) Dealing in or purporting to deal in hearing aids with an expired license is a violation of ORS 694.025 and OAR 331-030-0010(4) and shall incur the following penalties:

(a) For 1st offense: \$200;

(b) For 2nd offense: \$500;

(c) For 3rd offense: \$1,000 in addition to any other penalties allowed by law including probation, suspension, revocation or refusal to issue a license.

(2) Dealing in or purporting to deal in hearing aids without a license, with a license issued to another person, or a suspended license is a violation of ORS 694.025 and/or 676.612(1)(d) or 676.612(4) and OAR 331-030-0020(1) and shall incur the following penalties:

(a) For 1st offense: \$1,000;

(b) For 2nd offense: \$5,000 in addition to any other penalties allowed by law including revocation or refusal to issue a license.

(3) Failing as a licensee to inform the agency within 30-calendar days of a change of information is a violation of OAR 331-010-0040(1) and shall incur the following penalties:

(a) For 1st offense: \$50;

(b) For 2nd offense: \$100;

(c) For 3rd offense: \$150.

(4) Dealing in hearing aids by a trainee when not under the direct supervision of a supervisor is a violation of ORS 694.025 and 694.065(2) and OAR 331-610-0020(1) and shall incur the following penalties:

(a) For 1st offense: \$150;

(b) For 2nd offense: \$300;

(c) For 3rd offense: \$500.

(5) Failing, as a supervisor, to provide direct supervision of a trainee dealing in hearing aids is a violation of ORS 694.065(2), OAR 331-610-0020 (1) and (6) and shall incur the following penalties:

(a) For 1st offense: \$500;

(b) For 2nd offense: \$1,000 and suspension of the authorization to provide supervisory training;

(c) For 3rd offense: \$5,000 in addition to any other penalties allowed by law including probation, suspension, revocation or refusal to issue a license.

(6) Failing, as a supervisor, to exercise management, guidance, and control over the activities of the temporary hearing aid specialist is a violation of ORS 676.612(1)(j) and OAR 331-610-0030(3) shall incur the following penalties:

(a) For 1st offense: \$500;

(b) For 2nd offense: \$1,000 and suspension of the authorization to provide supervisory training;

(c) For 3rd offense: \$5,000 in addition to any other penalties allowed by law including probation, suspension, revocation or refusal to issue a license.

(7) Failing, as a supervisor, to evaluate and approve all matters involved in the testing, fitting, or in the sale of a hearing aid by a temporary hearing aid specialist before ordering the recommended hearing aid(s) is a violation of ORS 676.612(1)(j) and OAR 331-610-0030(2) and/or (4) and shall incur the following penalties:

(a) For 1st offense: \$500;

(b) For 2nd offense: \$1,000 and suspension of the authorization to provide supervisory training;

(c) For 3rd offense: \$5,000 in addition to any other penalties allowed by law including probation, suspension, revocation or refusal to issue a license.

(8) Failing, as a supervisor of a temporary hearing aid specialist, to co-sign and approve the audiogram, order form and office copy of statement, or failing to mail or provide a copy of the statement to the prospective hearing aid purchaser as required in ORS 694.036 and 694.042 is a violation of ORS 676.612(1)(j) and OAR 331-610-0030(4) and shall incur the following penalties:

(a) For 1st offense: \$300;

(b) For 2nd offense: \$1,000 and suspension of the authorization to provide supervisory training;

(c) For 3rd offense: \$5,000 in addition to any other penalties allowed by law including probation, suspension, revocation or refusal to issue a license.

(9) Failing to meet continuing education requirements pursuant to OAR 331-630-0000(1), or to provide or retain required documentation is a violation of OAR 331-630-0000(11) and/or 331-630-0010(2) and shall incur the following:

(a) For 1st offense: \$500 and suspension or revocation of license;

(b) For 2nd offense: \$1,000 and suspension or revocation of license;

(c) For 3rd offense: \$5,000 in addition to any other penalties allowed by law including revocation or refusal to issue a license.

(10) Failure to correct continuing education deficiencies within prescribed time frames is a violation of OAR 331-630-0010(4) and shall incur the following penalties:

(a) For 1st offense: \$500 and suspension or revocation of license;

(b) For 2nd offense: \$1,000 and suspension or revocation of license;

(c) For 3rd offense: \$5,000 in addition to any other penalties allowed by law including revocation or refusal to issue a license.

(11) Disqualification from an examination as a result of conduct is a violation of OAR 331-610-0050(2) and shall incur the following penalties: \$1,000, disqualification from reexamination as determined by the agency director and revocation of temporary hearing aid specialists license

(12) Failing to keep the facility clean and sanitary is a violation of OAR 331-640-0010(1) and shall incur the following penalties:

(a) For 1st offense: \$100;

(b) For 2nd offense: \$300;

(c) For 3rd offense: \$1,000.

(13) Failing to disinfect devices after direct contact with client's skin is a violation of OAR 331-640-0010(2) and shall incur the following penalties:

(a) For 1st offense: \$100;

(b) For 2nd offense: \$300;

(c) For 3rd offense: \$1,000.

(14) Failing to wash or sanitize hands before taking an ear mold impression is a violation of OAR 331-640-0010(4) and shall incur the following penalties:

(a) For 1st offense: \$100;

(b) For 2nd offense: \$300;

(c) For 3rd offense: \$1,000.

(15) Failing to calibrate or provide proof of calibration on audiometric testing equipment is a violation of OAR 331-640-0020 and shall incur the following penalties:

(a) For 1st offense: \$100;

(b) For 2nd offense: \$300;

(c) For 3rd offense: \$1,000.

(16) Failing to provide a client with a properly formatted *Statement to Prospective Purchaser* is a violation of ORS 694.036(1) and OAR 331-640-0030(1) and shall incur the following penalties per violation:

- (a) For 1st offense: \$300;
- (b) For 2nd offense: \$500;
- (c) For 3rd offense: \$1,000.

(17) Failing to obtain a signed medical waiver is a violation of ORS 694.142(6) and OAR 331-640-0040(2) and shall incur the following penalties per violation:

- (a) For 1st offense: \$300;
- (b) For 2nd offense: \$500;
- (c) For 3rd offense: \$1,000.

(18) Failing to respond timely to an agency request for information regarding a complaint is a violation of OAR 331-020-0050 and shall incur the following penalties per violation:

- (a) For 1st offense: \$300;
- (b) For 2nd offense: \$500;

(c) For 3rd offense: \$1,000 in addition to any other penalties allowed by law including probation, suspension, revocation or refusal to issue a license.

(19) Failing to comply with the additional standards of conduct is a violation of ORS 676.612(1)(j) and OAR 331-640-0050(1), (2), (3) and/or (4) and shall incur the following penalties per violation:

- (a) For 1st offense: \$500;
- (b) For 2nd offense: \$1,000;

(c) For 3rd offense: \$5,000 in addition to any other penalties allowed by law including probation, suspension, revocation or refusal to issue a license.

(20) Failing or refusing to rescind the sale of a hearing aid is a violation of ORS 676.612(1)(j) and (2), ORS 694.042(4), and ORS 694.147(2)(a) and shall incur a civil penalty established on a case-by-case basis.

(21) Failing to meet professional standards in dealing in hearing aids in violation of ORS 676.612(1)(j), ORS 694.147(2)(c) or OAR 331-640-0050(3) and shall incur the following penalties per violation:

- (a) For 1st offense: \$500;
- (b) For 2nd offense: \$1,000;

(c) For 3rd offense: \$5,000 in addition to any other penalties allowed by law including probation, suspension, revocation or refusal to issue a license.

(22) Fraud or misrepresentation in the practice of dealing in hearing aids is a violation of ORS 676.612, 694.147(2) or OAR 331-640-0050(3) and shall incur the following penalties per violation:

- (a) For 1st offense: \$500;
- (b) For 2nd offense: \$1,000;

(c) For 3rd offense: \$5,000 in addition to any other penalties allowed by law including probation, suspension, revocation or refusal to issue a license.

(23) Unprofessional conduct is a violation of ORS 676.612(1)(j), 694.147(2)(c) or OAR 331-640-0050(3) and shall incur the following penalties per violation:

- (a) For 1st offense: \$500;
- (b) For 2nd offense: \$1,000;

(c) For 3rd offense: \$5,000 in addition to any other penalties allowed by law including probation, suspension, revocation or refusal to issue a license.

Stat. Auth.: ORS 676.615, 676.992, 694.147

Stats. Implemented: ORS 676.615, 676.992, 694.147

Hist.: HD 8-1990, f. 4-4-90, cert. ef. 4-5-90; HD 23-1993, f. 12-30-93, cert. ef. 1-1-94; HD 18-1997, f. 12-12-97, cert. ef. 12-15-97;

Renumbered from 333-025-0075, HLO 6-2004, f. 6-29-04, cert. ef. 7-1-04