

1 HB29
2 168435-3
3 By Representative Lee
4 RFD: Boards, Agencies and Commissions
5 First Read: 02-FEB-16
6 PFD: 01/29/2016

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8 SYNOPSIS: Under existing law, the Board of Hearing
9 Instrument Dealers is the entity responsible for
10 licensing persons to engage in the fitting and sale
11 of hearing instruments in the state.

12 This bill would revise certain existing
13 defined terms and add new definitions.

14 This bill would remove specific dollar
15 amounts for fees and would authorize the board to
16 provide for fees pursuant to administrative rule.

17 This bill would further clarify reciprocity
18 requirements.

19 This bill would reflect adoption by the
20 board of international standardized test
21 procedures.

22 This bill would require an apprentice to be
23 under the direct supervision of a licensed
24 dispenser.

25 This bill would also make technical
26 corrections and would delete antiquated language.

1 A BILL
2 TO BE ENTITLED
3 AN ACT
4

5 To amend Sections 34-14-1, 34-14-2, 34-14-3,
6 34-14-4, 34-14-5, 34-14-6, 34-14-7, 34-14-8, 34-14-9,
7 34-14-11, 34-14-30, 34-14-32, and 34-14-33, Code of Alabama
8 1975, relating to the Board of Hearing Instrument Dealers; to
9 provide further for defined terms; to remove specific dollar
10 amounts for fees; to further clarify reciprocity requirements;
11 to reflect adoption by the board of international standardized
12 test procedures; to require an apprentice to be under the
13 direct supervision of a licensed dispenser; to delete
14 antiquated language; and to add Section 34-14-34 to the Code
15 of Alabama 1975, to specify the fees the board may provide
16 pursuant to administrative rule.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. Sections 34-14-1, 34-14-2, 34-14-3,
19 34-14-4, 34-14-5, 34-14-6, 34-14-7, 34-14-8, 34-14-9,
20 34-14-11, 34-14-30, 34-14-32, and 34-14-33 of the Code of
21 Alabama 1975, are amended to read as follows:

22 "§34-14-1.

23 "For purposes of this chapter, the following words
24 and phrases shall have the respective meanings ascribed by
25 this section:

26 "(1) APPRENTICE. A person who has met the
27 requirements of Section 34-14-7 and may engage in the practice

1 of fitting and dealing in hearing instruments only under the
2 direct supervision of a hearing aid dispenser or hearing aid
3 specialist when designated by the sponsoring dispenser.

4 ~~"(1)(2) APPRENTICE PERMIT. A permit issued while the~~
5 ~~applicant is in training to become a licensed hearing~~
6 ~~instrument fitter aid specialist.~~

7 ~~"(2)(3) BOARD. The Board of Hearing Instrument~~
8 ~~Dealers.~~

9 ~~"(3) DEALER. A person licensed under this chapter~~
10 ~~prior to July 3, 1991, to fit and deal in hearing instruments.~~
11 ~~A dealer's license may remain valid until June 30, 1996, only~~
12 ~~by continuous renewal.~~

13 "(4) DIRECT SUPERVISION. On site and close contact
14 whereby a supervisor is able to respond quickly to the needs
15 of the patient or client receiving care or the supervisee.

16 ~~"(4)(5) HEARING AID DISPENSER. Any trained person~~
17 ~~who shall meet has met all requirements of this chapter for~~
18 ~~licensure and who may engage in the practice of fitting and~~
19 ~~dealing in hearing instruments without the direct supervision~~
20 ~~of any person.~~

21 ~~"(5) FITTER. A trained, licensed person who shall~~
22 ~~engage in the practice of fitting and dealing in hearing~~
23 ~~instruments only under the direct supervision of a hearing~~
24 ~~instrument dispenser.~~

25 "(6) HEARING AID or HEARING INSTRUMENT. Any wearable
26 instrument or device designed for or offered for the purpose

1 of aiding or compensating for impaired human hearing ~~excluding~~
2 ~~assistive listening devices.~~

3 "(7) HEARING AID SPECIALIST. A trained, licensed
4 person who may engage in the practice of fitting and dealing
5 in hearing instruments under the indirect supervision of a
6 hearing aid dispenser.

7 "(8) INDIRECT SUPERVISION. Frequent and close
8 contact whereby a supervisor is able to respond quickly to the
9 needs of the patient or client receiving care or the
10 supervisee.

11 "~~(7)~~(9) LICENSE. A license issued by the board under
12 this chapter to a hearing ~~instrument fitter~~ aid specialist or
13 hearing aid dispenser.

14 "~~(8)~~(10) PRACTICE OF FITTING AND DEALING IN HEARING
15 INSTRUMENTS. The measurement of human hearing by means of an
16 audiometer or by other means approved by the board solely for
17 the purpose of making selections, adaptations, or sale of
18 hearing instruments. The term also includes the making of
19 impressions for earmolds. A licensee or permit holder, at the
20 request of a physician or a member of related professions, may
21 make audiograms for the professional's use in consultation
22 with the hard-of-hearing.

23 "~~(9)~~(11) SELL or SALE. Any transfer of title or of
24 the right to use by lease, bailment, or any other contract,
25 excluding wholesale transactions with distributors or dealers.

26 "(12) TELEPRACTICE. The practice as provided by rule
27 of the board pursuant to subdivision (10).

1 "§34-14-2.

2 "(a) No person shall engage in the sale of or
3 practice of fitting hearing instruments or display a sign or
4 in any other way advertise or represent himself or herself as
5 a person who practices the fitting and sale of hearing
6 instruments unless the person holds a license or permit issued
7 by the board as provided in this chapter. The license or
8 permit shall be conspicuously posted in his or her office or
9 place of business. Duplicate licenses or permits may be issued
10 by the board to valid license holders operating more than one
11 office, upon additional payment determined by the board for
12 each additional office. A license under this chapter shall
13 confer upon the holder the right to select, fit, and sell
14 hearing instruments.

15 "(b) Nothing in this chapter shall prohibit a
16 corporation, partnership, trust, association, or other like
17 organization maintaining an established business address from
18 engaging in the business of selling or offering for sale
19 hearing instruments at retail without a license; provided,
20 that it employs only properly licensed or permitted natural
21 persons and that it shall have at least one licensed Alabama
22 dispenser on its staff to provide direct supervision of any
23 licensed ~~fitters~~ hearing aid specialists or apprentices
24 employed in the direct sale and fitting of such products. Such
25 corporations, partnerships, trusts, associations, or other
26 like organizations shall file annually with the board a list
27 of all licensed hearing ~~instrument~~ aid dispensers, ~~fitters~~

1 hearing aid specialists, and apprentices directly or
2 indirectly employed by them. Such organizations shall also
3 file with the board a statement on a form approved by the
4 board that they submit themselves to the rules and regulations
5 of the board and the applicable provisions of this chapter.

6 "(c) Nothing in this chapter shall apply to
7 physicians licensed to practice medicine in this state or
8 employees under the supervision of a physician licensed to
9 practice medicine, or to the professional corporation or
10 professional association of such physicians.

11 "(d) Nothing in this chapter shall apply to ~~licensed~~
12 speech pathologists or to ~~licensed~~ audiologists licensed in
13 this state.

14 "§34-14-3.

15 "(a) The board shall register each applicant without
16 discrimination who pays an examination fee ~~of one hundred~~
17 ~~twenty-five dollars (\$125)~~ as prescribed by rule of the board
18 and who satisfactorily passes an examination as provided in
19 Section 34-14-4, and upon the applicant's payment of the
20 application fee, shall issue to the applicant a license signed
21 by the board. The license shall be effective until January 30
22 of the year following the year in which issued.

23 "(b) An applicant who fulfills the requirements
24 regarding age, character, education, and health, as set forth
25 in subsection (a) of Section 34-14-4, and who shall provide
26 proof of having met all state qualifying examination
27 requirements and requirements of certification as a national

1 board certified hearing ~~instrument~~ aid specialist shall be
2 issued a dispenser's license. All ~~applicants who have current~~
3 ~~valid Alabama dealer's and fitter's licenses as of July 3,~~
4 ~~1991, shall have five years from the date to obtain the~~
5 ~~requirements for certification. After the expiration of the~~
6 ~~five-year period, an applicant not providing proof of having~~
7 ~~met all requirements for certification as a national board~~
8 ~~certified hearing instrument specialist shall not be issued a~~
9 ~~dispenser's license but shall instead be issued a fitter's~~
10 ~~license.~~

11 " ~~(c) Whenever the board determines that another~~
12 ~~state or jurisdiction has requirements equivalent to or higher~~
13 ~~than those in effect pursuant to this chapter and that such~~
14 ~~state or jurisdiction has a program equivalent to or stricter~~
15 ~~than the program for determining whether applicants pursuant~~
16 ~~to this chapter are qualified to dispense and fit hearing~~
17 ~~instruments, the board may issue certificates of endorsement~~
18 ~~to applicants who hold current, unsuspended, and unrevoked~~
19 ~~certificates or licenses to fit and sell hearing instruments~~
20 ~~in such other state or jurisdiction. No such applicants for~~
21 ~~certificate of endorsement shall be required to submit to or~~
22 ~~undergo a qualifying examination, etc., other than the payment~~
23 ~~of fees, pursuant to this section and Section 34-14-6. The~~
24 ~~holder of a certificate of endorsement shall be registered in~~
25 ~~the same manner as licensees. The fee for an initial~~
26 ~~certificate of endorsement shall be the same as the fee for an~~
27 ~~initial license. Fees, grounds for renewal, and procedures for~~

1 ~~the suspension and revocation of certificates of endorsement~~
2 ~~shall be the same as for renewal, suspension, and revocation~~
3 ~~of a license.~~ An applicant for licensure by reciprocity shall
4 submit to the board, in form and content satisfactory to the
5 board, written proof of all of the following:

6 "(1) That the applicant is currently licensed as a
7 hearing aid specialist, hearing aid dispenser, or hearing aid
8 dealer under the laws of another state or the District of
9 Columbia.

10 "(2) That the requirements for the license are
11 equivalent to or greater than those required in this state.
12 Minimum acceptable tests shall be approved by the board and
13 shall be at or above the standards set by the National
14 Institute of Hearing Instrument Studies examination. Scores
15 from the licensing authority shall be mailed from that
16 authority directly to the board and the test shall have been
17 taken within the past 12 months.

18 "(3) That the licensee is in good standing and his
19 or her license has not been suspended or revoked.

20 "(4) That verification of all licenses that have
21 been issued are on file with the board.

22 "(5) That the state that issued the license has a
23 current reciprocity agreement on file with the board.

24 "(d) An applicant who has a complaint pending
25 against him or her in another state may not be granted an
26 Alabama license until the complaint is resolved and resolution
27 validated by the licensing agency of that state.

1 "(e) Any person making application for licensure
2 under this section shall be required to pass the Alabama law
3 written test and all areas of the practical examination.

4 "(f) The holder of a certificate of endorsement
5 shall be registered in the same manner as a licensee. The fee
6 for an initial certificate of endorsement shall be the same as
7 the fee for an initial license. Fees, grounds for renewal, and
8 procedures for the suspension and revocation of a certificate
9 of endorsement shall be the same as the fees, grounds for
10 renewal, and procedures for the suspension of a license.

11 "§34-14-4.

12 "(a) Applicants may obtain a license by successfully
13 passing a qualifying examination; provided, that the
14 applicant:

15 "(1) Is at least 19 years of age;

16 "(2) Is of good moral character;

17 "(3) Has an education equivalent to a four-year
18 course in an accredited high school;

19 "(4) Is free of contagious or infectious disease;

20 and

21 "(5) Is a citizen of the United States or, if not a
22 citizen of the United States, a person who is legally present
23 in the United States with appropriate documentation from the
24 federal government.

25 "(b) An applicant who meets the qualifications of
26 subsection (a) ~~hereof~~ as determined by the board who applies
27 for license by examination shall appear at a time, place, and

1 before such persons as the board may designate to be examined
2 by means of written and practical tests in order to
3 demonstrate that he or she is qualified to practice the
4 fitting and sale of hearing instruments. ~~The examination~~
5 ~~administered as directed by the board constituting standards~~
6 ~~for licensing shall not be conducted in such a manner that~~
7 ~~college training is required in order to pass the examination.~~
8 ~~Nothing in this examination shall imply that the applicant~~
9 ~~shall possess the degree of medical competence normally~~
10 ~~expected of physicians.~~

11 "(c) The board shall give examinations at least
12 three times each year.

13 "§34-14-5.

14 "(a) The qualifying examination provided in Section
15 34-14-4 shall be designed to demonstrate the applicant's
16 adequate technical qualifications by testing the applicant in
17 three separate sections consisting of a written examination, a
18 practical examination, and a state law examination. The board
19 may revise standards for the qualifying examination, so long
20 as the following minimum requirements are satisfied:

21 "~~(1) Tests of knowledge in areas specified by the~~
22 ~~board, provided the board is specifically authorized to adopt~~
23 ~~and administer a national examination; and~~

24 "~~(2) Practical tests of proficiency in the following~~
25 ~~techniques as they pertain to the fitting of hearing~~
26 ~~instruments:~~

1 ~~"a. Pure tone audiometry, including air conduction~~
2 ~~testing and bone conduction testing,~~

3 ~~"b. Masking when indicated,~~

4 ~~"c. Recording and evaluation of audiograms to~~
5 ~~determine proper selection and adaptation of a hearing~~
6 ~~instrument, and~~

7 ~~"d. Taking earmold impressions.~~

8 "(1) Written examination scores from states with
9 existing reciprocity agreements with the board are considered
10 valid for 12 months from the date of examination in the other
11 state if the examination is determined by the board to be
12 similar in content to the qualifying examination required for
13 licensure in this state.

14 "(2) An applicant who fails one or more sections of
15 the qualifying examination may retest failed sections for the
16 qualifying examination in the following manner:

17 "a. An applicant who fails the written examination
18 section shall retake the entire written examination section.

19 "b. An applicant who fails the Alabama law section
20 shall retake the entire Alabama law section.

21 "c. An applicant who fails the practical examination
22 section shall be retested in only those portions of the
23 practical examination that he or she failed.

24 "d. An applicant who fails to successfully complete
25 a retest pursuant to paragraphs a., b., or c., or any
26 combination of these, may retake the entire three-section
27 qualifying examination within one year from the initial test.

1 "(b) The three-section qualifying examination may
2 not include questions requiring a medical or surgical
3 education. The purpose of the examination, at a minimum, is to
4 provide the opportunity for a person with a high school level
5 education, or its equivalent, with appropriate study through
6 the apprentice training program and training and supervision
7 under the direction of a licensed dispenser, to enter the
8 profession.

9 "(c) The practical examination section of the
10 qualifying examination shall include all of the following
11 areas:

12 "(1) Pretest procedure.

13 "(2) Pure tone air conduction and masking.

14 "(3) Pure tone bone conduction and masking.

15 "(4) Speech audiometry and masking.

16 "(5) Ear impressions.

17 "(6) Audiogram interpretation and fitting.

18 "(7) Troubleshooting hearing aids.

19 "§34-14-6.

20 "(a) Each person who engages in the fitting and sale
21 of hearing instruments shall annually, on or before January
22 30, pay to the board a fee as prescribed by rule of the board
23 for a renewal of his or her license and shall keep such
24 certificate conspicuously posted in his or her office or place
25 of business at all times. ~~The fee shall be \$100 for a fitter's~~
26 ~~license and \$150 for a dispenser's license.~~ Where more than
27 one office is operated by the licensee, duplicate certificates

1 shall be issued by the board for posting in each location upon
2 payment of the fee prescribed by rule of the board. A ~~30-day~~
3 ~~grace period shall be allowed after January 30, during which~~
4 ~~time licenses may be renewed on payment of a late fee of~~
5 ~~twenty-five dollars (\$25), in addition to the license renewal~~
6 ~~fee, to the board. After expiration of the grace period, the~~
7 ~~license is expired and thereafter~~ license may be reinstated
8 and renewed within two years. The board may renew such expired
9 certificates upon payment of a ~~one hundred dollar (\$100)~~
10 reinstatement fee as prescribed by the board, in addition to
11 the license renewal fee, to the board. No person who applies
12 for renewal, whose license has expired, shall be required to
13 submit to any examination as a condition to renewal; provided,
14 that such renewal application is made within two years from
15 the date of such expiration.

16 "(b) All fees collected by the board shall be set by
17 rule of the board. For calendar year 2016, no single fee shall
18 exceed two hundred fifty dollars (\$250). For any calendar year
19 thereafter, no single fee may be increased by more than 20
20 percent per year.

21 ~~"(b)(c)~~ (c) The board shall ~~adopt and~~ maintain a program
22 of continuing education for its licensees ~~not later than~~
23 ~~October 1, 1991, and after that date no.~~ No licensee shall
24 have his or her active license renewed unless, in addition to
25 any other requirements of this chapter, the minimum continuing
26 annual education requirements are met.

27 "§34-14-7.

1 "(a) An applicant who fulfills the requirements
2 regarding age, character, education, and health, as set forth
3 in subsection (a) of Section 34-14-4, may obtain an apprentice
4 permit upon application to the board and payment of any
5 required application and permit fees as prescribed by rule of
6 the board.

7 "(b) Upon receiving an application as provided under
8 this section and accompanied by ~~a fee of one hundred dollars~~
9 ~~(\$100)~~ the required fees, the board shall issue an apprentice
10 permit which shall entitle the applicant to engage in the
11 fitting and sale of hearing instruments for a period of one
12 year under the direct supervision of a person holding a valid
13 Alabama dispenser license or hearing aid specialist license,
14 when designated by the sponsor, provided the apprentice has
15 ~~received 80 hours of academic and practical instruction under~~
16 ~~the direct supervision and immediate physical observation of~~
17 ~~the person holding a valid current Alabama hearing instrument~~
18 ~~dispenser's license. The licensed dispenser shall be totally~~
19 ~~responsible for the direct supervision and physical~~
20 ~~observation and training of the applicant thereafter~~
21 successfully completed the International Institute for Hearing
22 Instrument Studies distance learning program. A sponsoring
23 dispenser is responsible for the actions and training of the
24 apprentice. An apprentice permit may be renewed for an
25 additional year, upon terms and conditions established by the
26 board. An applicant may not be issued a second permit within a

1 five-year period following the expiration date of the initial
2 permit.

3 "(c) An apprentice or applicant who successfully
4 completes the ~~fitter's~~ hearing aid specialist examination may
5 obtain a ~~fitter's~~ hearing aid specialist license upon
6 application to the board, and payment of the ~~license fee~~
7 required fees, which shall entitle the applicant to engage in
8 the sale or fitting of hearing instruments until January 30th
9 of the following year under the direct supervision of a person
10 holding a current Alabama hearing ~~instrument~~ aid dispenser's
11 license. The licensed dispenser shall be totally responsible
12 for the supervision of all activities of the ~~fitter~~ hearing
13 aid specialist pertaining to the sale and fitting of hearing
14 instruments, ~~upon payment of a one hundred dollar (\$100) fee.~~

15 "(d) The dispenser who is responsible for the
16 supervision and training of an apprentice shall not have more
17 than four apprentices under his or her supervision at any
18 time. There shall be no limitations on the number of ~~fitters~~
19 hearing aid specialists a dispenser may have under his or her
20 supervision at any given time.

21 "(e) The dispenser responsible for the supervision
22 and training of any apprentice or ~~fitter~~ hearing aid
23 specialist shall be subject to administrative actions with
24 respect to licensure and to civil liability for all actions of
25 an apprentice or ~~fitter~~ hearing aid specialist under his or
26 her supervision when the apprentice or ~~fitter~~ hearing aid
27 specialist engages in unethical, prohibited, fraudulent,

1 deceptive, and misleading conduct involving the fitting and
2 dispensing of hearing instruments.

3 "§34-14-8.

4 "(a) A person who holds a license shall notify the
5 board in writing of the regular address of the place or places
6 where he or she engages or intends to engage in the fitting or
7 the sale of hearing instruments.

8 "(b) The board shall keep a record of the place of
9 business of licensees.

10 "(c) Any notice required to be given by the board to
11 a person who holds a license shall be mailed to him or her at
12 the address of the last place of business of which he or she
13 has notified the board.

14 "(d) Any change of address, place of business, or
15 sponsor shall be submitted to the board within 30 days after
16 the change. Replacement certificates shall be issued by the
17 board upon the payment of the required fee.

18 "§34-14-9.

19 "(a) Any person wishing to make a complaint against
20 a licensee or apprentice under this chapter shall reduce the
21 same to writing and file his or her complaint with the board
22 within one year from the date of the action upon which the
23 complaint is based. If the board investigates and determines
24 the charges made in the complaint are sufficient to warrant a
25 hearing to determine whether the license issued under this
26 chapter shall be suspended or revoked, it shall make an order
27 fixing a time and place for a hearing and require the licensee

1 complained against to appear and defend against the complaint.
2 The order shall have annexed thereto a copy of the complaint.
3 The order and copy of the complaint shall be served upon the
4 licensee at least 20 days before the date set for hearing,
5 either personally or by registered or certified mail sent to
6 the licensee's last known address. Continuances or adjournment
7 of hearing date shall be made if for good cause. At the
8 hearing the licensee complained against may be represented by
9 counsel. The licensee complained against and the board may
10 take depositions in advance of hearing and after service of
11 the complaint, and either may compel the attendance of
12 witnesses by subpoenas issued by the board under its seal.
13 Either party taking depositions shall give at least five days'
14 written notice to the other party of the time and place of
15 such depositions, and the other party may attend, with counsel
16 if desired, and cross-examine. Appeals from suspension or
17 revocation may be made to the circuit court. In the event of
18 an appeal, there shall be a trial de novo and the trial shall
19 be before the court without the intervention of a jury.

20 "(b) The board may discipline its licensees and
21 apprentices by the adoption and collection of administrative
22 fines, not to exceed one thousand dollars (\$1,000) per
23 violation and may institute any legal proceedings necessary to
24 effect compliance with this chapter.

25 "(c) Any person registered under this chapter may
26 have his or her permit or license revoked or suspended by the
27 board, be reprimanded by the board, or be administratively

1 fined not more than one thousand dollars (\$1,000) per
2 violation by the board for any of the following causes:

3 "(1) The conviction of a felony or a misdemeanor
4 involving moral turpitude; the record of conviction or a
5 certified copy thereof, certified by the clerk of the court or
6 by the judge in whose court the conviction is had, shall be
7 prima facie proof of such conviction.

8 "(2) Procuring of a license by fraud or deceit.

9 "(3) Unethical conduct, including:

10 "a. The obtaining of any fee or the making of any
11 sale by fraud or misrepresentation.

12 "b. Knowingly employing, directly or indirectly, any
13 suspended or unregistered person to perform any work covered
14 by this chapter.

15 "c. Using or causing or promoting the use of any
16 advertising matter, promotional literature, testimonial,
17 guarantee, warranty, label, brand, insignia, or any other
18 representation, however disseminated or published, which is
19 misleading, deceptive, or untruthful.

20 "d. Advertising a particular model or type of
21 hearing instrument for sale when purchasers or prospective
22 purchasers responding to the advertisement cannot purchase the
23 advertised model or type, where it is established that the
24 purpose of the advertisement is to obtain prospects for the
25 sale of a different model or type than that advertised.

26 "e. Representing that the service or advice of a
27 person licensed to practice medicine shall be used or made

1 available in the selection, fitting, adjustment, maintenance,
2 or repair of hearing instruments when that is not true, or
3 using the words "doctor," "clinic," balance clinics, or
4 similar words, abbreviations, or symbols which tend to connect
5 the medical profession when such use is not accurate.

6 "f. Habitual intemperance.

7 "g. Gross immorality.

8 "h. Permitting another's use of a license.

9 "i. Advertising a manufacturer's name or trademark
10 which implies a relationship with the manufacturer that does
11 not exist.

12 "j. Directly or indirectly giving or offering to
13 give, or permitting or causing to be given, money or anything
14 of value to any person who advises another in a professional
15 capacity as an inducement to influence him or her or have him
16 or her influence others to purchase or contract to purchase
17 products sold or offered for sale by a hearing ~~instrument~~ aid
18 dispenser, ~~fitter~~ hearing aid specialist, or apprentice, or
19 influencing persons to refrain from dealing in the products of
20 competitors.

21 "(4) Conducting business while suffering from a
22 contagious or infectious disease.

23 "(5) Engaging in the fitting and sale of hearing
24 instruments under a false name or alias with fraudulent
25 intent.

26 "(6) Selling a hearing instrument to a person who
27 has not been given tests utilizing appropriate established

1 procedures and instrumentation in fitting of hearing
2 instruments, except in cases of selling replacement hearing
3 instruments.

4 "(7) Gross incompetence or negligence in fitting and
5 selling hearing instruments.

6 "(8) Violating any provision of this chapter.

7 "(d) The board may bring an action to enjoin any
8 person, firm, or corporation who, without being licensed or
9 issued a permit by the board, dispenses hearing instruments in
10 this state. The action shall be filed in the county in which
11 such person resides or practices or in the county where the
12 firm or corporation maintains an office or practices.

13 Notwithstanding any other provision of law to the contrary,
14 after notice and hearing, the board may issue a cease and
15 desist order prohibiting any person from violating this
16 chapter by engaging in the practice of ~~dealing~~, fitting,
17 selling, or dispensing hearing instruments without a license.

18 "§34-14-11.

19 "(a) The board shall perform the following duties:

20 "(1) Authorize all disbursements necessary to carry
21 out the provisions of this chapter;

22 "(2) Register persons who apply to the board who are
23 qualified to engage in the fitting and sale of hearing
24 instruments;

25 "(3) Administer, coordinate, and enforce this
26 chapter, evaluate the qualifications and supervise the
27 examinations of applicants for licensure under this chapter,

1 issue and renew licenses and permits under this chapter, and
2 investigate allegations of violations of this chapter;

3 "(4) Promulgate rules and regulations necessary to
4 carry out the provisions of this chapter and to establish
5 consumer protection provisions, provisions for prohibited
6 practices, and requirements for businesses;

7 "(5) Issue and renew a dispenser's license to sell
8 and fit hearing instruments to any person who is duly licensed
9 under the laws of this state as an audiologist; and

10 "(6) Furnish a list of persons licensed under this
11 chapter, upon request and payment of the required fee.

12 "(b) The board shall be authorized to review
13 individual appeals for exemption from required certification
14 for a dispenser's license.

15 "(c) The board may subpoena witness's testimony and
16 records for any official hearing or proceeding of the board.

17 "§34-14-30.

18 "(a) There is established a Board of Hearing
19 Instrument Dealers which shall administer this chapter.

20 "(b) Members of the board shall be citizens and
21 residents of the state and appointed by the Governor. The
22 membership of the commission shall be inclusive and reflect
23 the racial, gender, geographic, urban/rural, and economic
24 diversity of the state. The board shall consist of eight
25 members as follows: Five licensees, one of whom may be a
26 ~~fitter~~ hearing aid specialist, one physician who specializes
27 in diseases of the ear, one audiologist, and one consumer

1 member. The consumer member shall have the same powers as
2 other board members, except that the consumer member shall
3 have no voting powers in matters of issuing, suspending, or
4 revoking licenses, and neither the consumer member, nor his or
5 her spouse, shall be a hearing ~~instrument fitter aid~~
6 specialist or hearing aid dispenser. Each hearing ~~instrument~~
7 ~~fitter aid specialist~~ or hearing aid dispenser on the board
8 shall have no less than three years of experience and shall
9 hold a valid license as a hearing ~~instrument fitter aid~~
10 specialist or hearing aid dispenser, as provided under this
11 chapter. No member of the board shall be from the same
12 business or firm of another board member, and no member shall
13 be the spouse or immediate family member of another board
14 member.

15 "(c) All members of the board shall be appointed by
16 the Governor from a list of qualified persons nominated by the
17 Alabama Society for Hearing Healthcare Providers. The term of
18 office of each member shall be for four years. Before a
19 member's term expires, the Governor shall appoint a successor
20 to assume his or her duties upon the expiration of his or her
21 predecessor's term. A vacancy in the office of a member shall
22 be filled by appointment for the unexpired term. The members
23 of the board shall annually designate one member to serve as
24 chair, another to serve as vice chair, and such other officers
25 the board deems necessary, including a complaints chair. ~~All~~
26 ~~board members serving on June 1, 1994, shall retain their~~
27 ~~membership on the board.~~

1 "(d) No member of the board who has served two or
2 more full terms may be reappointed to the board until at least
3 one year after the expiration of his or her most recent full
4 term of office.

5 "(e) Members of the board shall receive for each day
6 actually engaged in the duties of the office a per diem amount
7 of twenty-five dollars (\$25), not to exceed the sum of one
8 thousand dollars (\$1,000) per year, and reimbursement for
9 traveling expenses as provided in Article 2 of Chapter 7 of
10 Title 36, and other expenses, the remuneration and
11 reimbursement to be paid from appropriations made for this
12 purpose.

13 "(f) The Governor may remove any member for neglect
14 of duty, incompetency, or unprofessional conduct. The board
15 may employ, and at its pleasure discharge, an executive
16 secretary and such officers and employees as may be necessary,
17 and the board shall fix their compensation.

18 "§34-14-32.

19 "The board shall meet not less than ~~once~~ twice each
20 year at a place, day, and hour determined by the board. The
21 board shall also meet at such other times and places as may be
22 requested by the state board.

23 "§34-14-33.

24 "(a) ~~On or before the tenth day of each month~~ Within
25 a week of receiving funds, the board shall pay into the State
26 Treasury all moneys received by it under this chapter during
27 the preceding calendar month. The State Treasury shall credit

1 the moneys to the Board of Hearing Instrument Dealers Account,
2 which account is hereby created.

3 "(b) The moneys in ~~the State Board of Health Hearing~~
4 ~~Aid Account shall, on June 1, 1994, be transferred to the~~
5 ~~account of~~ the Board of Hearing Instrument Dealers Account
6 shall remain, and the board may use funds in the account for
7 the purpose of paying the expenses of administering and
8 enforcing the provisions of this chapter."

9 Section 2. Section 34-14-34 is added to the Code of
10 Alabama 1975, to read as follows:

11 §34-14-34.

12 (a) The board shall establish fees by rule adopted
13 pursuant to the Alabama Administrative Procedure Act. The
14 board may impose fees of not less than twenty-five dollars
15 (\$25) nor more than one thousand dollars (\$1,000) for each of
16 the following:

17 (1) Initial application fee for an apprentice
18 permit, hearing aid specialist license, and hearing aid
19 dispenser license.

20 (2) License fee for a hearing aid specialist license
21 and for a hearing aid dispenser license.

22 (3) Renewal fee for the renewal of a hearing aid
23 specialist license and the renewal of a hearing aid dispenser
24 license.

25 (4) Permit fee for an apprentice permit.

26 (5) Renewal fee for an apprentice permit.

1 (6) Qualifying examination and retest examination
2 fees.

3 (7) Late filing fee for a business statement of
4 compliance.

5 (8) Late renewal fee.

6 (9) Reinstatement license fee.

7 (10) Duplicate license, certificate, or permit fee.

8 (11) Replacement license, certificate, or permit
9 fee.

10 (12) Verification of license fee.

11 (13) Mailing list fee.

12 (14) Returned check fee.

13 (15) Special assessment fee.

14 (b) A fee may not be refunded to an applicant or
15 licensee under any circumstances.

16 Section 3. This act shall become effective on the
17 first day of the third month following its passage and
18 approval by the Governor, or its otherwise becoming law.