

ARTICLE 9. HEARING AID DEALERS

Rule 1. Fees

844 IAC 9-1-1 Fees

Authority: IC 25-1-8-2; IC 25-20-1-6

Affected: IC 25-20-1

Sec. 1. The medical licensing board of Indiana shall charge and collect the following fees:

(1) For the examination and/or reexamination of an applicant to practice as a hearing aid dealer, an administrative/issuance fee of sixty dollars (\$60) payable to the Health Professions Bureau, plus the applicant's cost of purchasing the examination payable to the examination service.

(2) For the renewal of the certificate to practice as a hearing aid dealer, forty dollars (\$40).

(3) For the issuance of a student hearing aid dealer certificate of registration, twenty dollars (\$20).

(4) For the renewal of a student hearing aid dealer certificate, twenty dollars (\$20).

(5) For verification of hearing aid dealer certificate to another state, ten dollars (\$10).

(6) For a duplicate wall certificate, ten dollars (\$10).

(Medical Licensing Board of Indiana; 844 IAC 9-1-1; filed Nov 22, 1985, 4:37 p.m.: 9 IR 766; filed Jun 28, 1996, 9:45 a.m.: 19 IR 3103; readopted filed Dec 2, 2001, 12:30 p.m.: 25 IR 1317; readopted filed Oct 10, 2008, 8:57 a.m.: 20081105-IR-844080341RFA)

Rule 2. Definitions

844 IAC 9-2-1 General

Authority: IC 25-20-1-23

Affected: IC 25-20-1

Sec. 1. The definitions in this rule apply throughout this article. *(Medical Licensing Board of Indiana; 844 IAC 9-2-1; filed Mar 1, 1990, 4:55 p.m.: 13 IR 1177; readopted filed Nov 14, 2001, 2:47 p.m.: 25 IR 1317; readopted filed Oct 4, 2007, 3:35 p.m.: 20071031-IR-844070052RFA)*

844 IAC 9-2-2 "Board" defined

Authority: IC 25-20-1-23

Affected: IC 25-20-1

Sec. 2. "Board" refers to the medical licensing board of Indiana. *(Medical Licensing Board of Indiana; 844 IAC 9-2-2; filed Mar 1, 1990, 4:55 p.m.: 13 IR 1177; readopted filed Nov 14, 2001, 2:47 p.m.: 25 IR 1317; readopted filed Oct 4, 2007, 3:35 p.m.: 20071031-IR-844070052RFA)*

844 IAC 9-2-3 "Bureau" defined

Authority: IC 25-20-1-23

Affected: IC 25-20-1

Sec. 3. "Bureau" refers to the health professions bureau. *(Medical Licensing Board of Indiana; 844 IAC 9-2-3; filed Mar 1, 1990, 4:55 p.m.: 13 IR 1177; readopted filed Nov 14, 2001, 2:47 p.m.: 25 IR 1317; readopted filed Oct 4, 2007, 3:35 p.m.: 20071031-IR-844070052RFA)*

844 IAC 9-2-4 "Committee" defined

Authority: IC 25-20-1-23

Affected: IC 25-20-1

Sec. 4. "Committee" refers to the committee of hearing aid dealer examiners. *(Medical Licensing Board of Indiana; 844 IAC 9-2-4; filed Mar 1, 1990, 4:55 p.m.: 13 IR 1177; readopted filed Nov 14, 2001, 2:47 p.m.: 25 IR 1317; readopted filed Oct 4, 2007, 3:35 p.m.: 20071031-IR-844070052RFA)*

844 IAC 9-2-5 "Sponsor" defined

Authority: IC 25-20-1-23
Affected: IC 25-20-1

Sec. 5. "Sponsor" refers to a registered hearing aid dealer in good standing serving as a sponsoring or supervising hearing aid dealer for a person who has been issued a student hearing aid dealer certificate. (*Medical Licensing Board of Indiana; 844 IAC 9-2-5; filed Mar 1, 1990, 4:55 p.m.: 13 IR 1177; readopted filed Dec 2, 2001, 12:30 p.m.: 25 IR 1318; readopted filed Oct 4, 2007, 3:35 p.m.: 20071031-IR-844070052RFA*)

844 IAC 9-2-6 "Student" defined

Authority: IC 25-20-1-23
Affected: IC 25-20-1-5

Sec. 6. "Student" refers to a person issued a student hearing aid dealer certificate pursuant to IC 25-20-1-5. (*Medical Licensing Board of Indiana; 844 IAC 9-2-6; filed Mar 1, 1990, 4:55 p.m.: 13 IR 1178; readopted filed Nov 14, 2001, 2:47 p.m.: 25 IR 1317; readopted filed Oct 4, 2007, 3:35 p.m.: 20071031-IR-844070052RFA*)

Rule 3. Application

844 IAC 9-3-1 Hearing aid dealer registration

Authority: IC 25-20-1-23
Affected: IC 25-1-9; IC 25-20-1-3

Sec. 1. (a) The board may issue a registration to an applicant submitting an application in proper form, together with the nonrefundable fee, specified in 844 IAC 9-1-1, passing the examination, and meeting all other minimum requirements specified in IC 25-20-1-3.

(b) Persons seeking registration as a hearing aid dealer shall file an application on a form supplied by the bureau.

(c) Persons seeking registration as a hearing aid dealer may be requested to appear before the committee and shall provide the following information on, or submit such information with, the application for licensure or permit:

(1) All names used by the applicant, explaining the reason for the name change(s) or use(s).

(2) Date and place of birth.

(3) Whether the applicant has ever been issued a student hearing aid dealer certificate and, if so, the name of the sponsor for that certificate and date the certificate was issued.

(4) A list of all states, including Indiana, in which the applicant has ever applied for, or held, a certificate to practice as a hearing aid dealer.

(5) Whether the applicant is, or has ever been, addicted to any narcotic drugs, alcohol, or other drugs, and if so, the details of such addiction.

(6) Whether the applicant has ever had any disciplinary action taken against any hearing aid dealer certificate, registration, and/or license held by the applicant, by a licensing agency of this state, or any other state or jurisdiction and the date(s) and details of such action.

(7) Whether the applicant has ever been convicted of any violation of law relating to drug abuse, controlled substances, narcotic drugs, or any other drugs, including the date(s) and details of such conviction.

(8) A statement that the applicant has not been convicted of a criminal offense (excluding minor traffic violations) nor other offenses as specified in IC 25-1-9, or a certified statement listing all criminal offenses (excluding minor traffic violations) of which the applicant has been convicted. This listing must include:

(A) the offense for which the applicant was convicted;

(B) the court in which the applicant was convicted; and

(C) the cause number in which the applicant was convicted.

(9) Two (2) passport-type photographs taken within sixty (60) days of the date of submission of the application.

(d) To be eligible to take the examination, the application must be received no later than forty-five (45) days prior to the date

of the examination. (*Medical Licensing Board of Indiana; 844 IAC 9-3-1; filed Mar 1, 1990, 4:55 p.m.: 13 IR 1178; readopted filed Dec 2, 2001, 12:30 p.m.: 25 IR 1318; readopted filed Oct 4, 2007, 3:35 p.m.: 20071031-IR-844070052RFA*)

844 IAC 9-3-2 Student hearing aid dealer registration

Authority: IC 25-20-1-23
Affected: IC 25-20-1

Sec. 2. A person applying for registration as a student hearing aid dealer shall:

- (1) submit all information required by 844 IAC 9-2-1; and
- (2) submit a statement by a hearing aid dealer registered in Indiana certifying that the hearing aid dealer will serve as a sponsor for the student. This statement shall be signed by the applicant and the sponsor and shall state that both parties understand the student/sponsor relationship and have read and understand these duties and responsibilities as set forth in 844 IAC 9-6-1.

(*Medical Licensing Board of Indiana; 844 IAC 9-3-2; filed Mar 1, 1990, 4:55 p.m.: 13 IR 1178; readopted filed Nov 14, 2001, 2:47 p.m.: 25 IR 1317; readopted filed Oct 4, 2007, 3:35 p.m.: 20071031-IR-844070052RFA*)

844 IAC 9-3-3 Change of address

Authority: IC 25-20-1-23
Affected: IC 25-20-1

Sec. 3. (a) Each registrant shall inform the board, in writing, of all changes of address for residence and business, within ten (10) days of such change.

(b) A registrant's failure to receive notification of renewal due to failure to notify the board of a change of address shall not constitute an error on the part of the committee, board, or bureau, nor shall it exonerate or otherwise excuse the registrant from renewing such registration. (*Medical Licensing Board of Indiana; 844 IAC 9-3-3; filed Mar 1, 1990, 4:55 p.m.: 13 IR 1178; readopted filed Nov 14, 2001, 2:47 p.m.: 25 IR 1317; readopted filed Oct 4, 2007, 3:35 p.m.: 20071031-IR-844070052RFA*)

Rule 4. Certification Renewal

844 IAC 9-4-1 Hearing aid dealer certificate renewal

Authority: IC 25-20-1-23
Affected: IC 25-20-1-25

Sec. 1. (a) Every individual holding a certificate to practice as a hearing aid dealer shall renew that certificate biennially.

(b) An application for renewal shall be on a form provided by the bureau and shall be accompanied by the renewal fee specified in 844 IAC 9-1-1.

(c) Any registrant not renewing the certificate to practice as a hearing aid dealer by June 30 of each even numbered year shall be reinstated upon paying the biennial renewal fee, late fee, completing a renewal form supplied by the board or its duly authorized agent, and submitting proof of meeting the continuing education hour requirements specified in IC 25-20-1-25. (*Medical Licensing Board of Indiana; 844 IAC 9-4-1; filed Mar 1, 1990, 4:55 p.m.: 13 IR 1179; readopted filed Dec 2, 2001, 12:30 p.m.: 25 IR 1318; readopted filed Oct 4, 2007, 3:35 p.m.: 20071031-IR-844070052RFA*)

844 IAC 9-4-2 Student hearing aid dealer certificate renewal

Authority: IC 25-20-1-23
Affected: IC 25-20-1-5

Sec. 2. (a) If a student changes sponsors prior to the expiration of the certificate, any subsequent certificate shall be issued for the remaining period of the initial certificate.

(b) Pursuant to IC 25-20-1-5, a student hearing aid dealer certificate may be renewed at the discretion of the board upon recommendation by the committee. Prior to the time of requesting such a renewal, the student and sponsor shall be required to appear before the committee and submit a report outlining the student's training and practical experience.

(c) If such a renewal is granted, the student will be required to reapply and take all parts of the exam. (*Medical Licensing Board*

of Indiana; 844 IAC 9-4-2; filed Mar 1, 1990, 4:55 p.m.: 13 IR 1179; readopted filed Dec 2, 2001, 12:30 p.m.: 25 IR 1319; readopted filed Oct 4, 2007, 3:35 p.m.: 20071031-IR-844070052RFA)

844 IAC 9-4-3 Application for approval

Authority: IC 25-20-1-25

Affected: IC 25-20-1-25

Sec. 3. (a) The sponsor of the continuing education course must file an application provided by the committee sixty (60) days prior to the date the course is given. The application shall include the following information:

- (1) Name of lecturer or course being offered.
- (2) Brief summary of content of course.
- (3) Date and location of course.
- (4) Number of clock hours of continuing education requested.
- (5) Any other pertinent information required by the committee.

(b) As a condition for approval of its course, the sponsor must agree to provide participants with a record of attendance and to retain records of attendance by participants for four (4) years from the date of the program. *(Medical Licensing Board of Indiana; 844 IAC 9-4-3; filed Apr 23, 1992, 5:00 p.m.: 15 IR 1955; readopted filed Nov 14, 2001, 2:47 p.m.: 25 IR 1317; readopted filed Oct 4, 2007, 3:35 p.m.: 20071031-IR-844070052RFA)*

844 IAC 9-4-4 Standards for approval

Authority: IC 25-20-1-25

Affected: IC 25-20-1-25

Sec. 4. (a) Except for courses approved by the American Speech-Language-Hearing Association or the National Institute for Hearing Instrument Studies, all other courses must be approved by the committee. In order to be approved by the committee, all courses for continuing education shall meet the requirements in subsection (b).

(b) The course will make a substantial contribution to the professional competency of hearing aid dealers who enroll. In determining if a course meets this standard, the committee will consider whether the continuing education course:

- (1) has an acceptable statement of objectives which the program shall achieve for its participants;
- (2) will provide adequate administration, including a responsible person to coordinate and administer the course, and will provide for the maintenance of proper records;
- (3) will employ a variety of educational methods and teaching aids that enhance the learning opportunities;
- (4) is of sufficient length to provide a substantial educational experience; courses of less than one (1) hour will be reviewed carefully to determine if they furnish a substantial educational experience; and
- (5) will provide to the participants a meaningful record of attendance stating the continuing education hours involved.

(Medical Licensing Board of Indiana; 844 IAC 9-4-4; filed Apr 23, 1992, 5:00 p.m.: 15 IR 1955; readopted filed Nov 14, 2001, 2:47 p.m.: 25 IR 1317; readopted filed Oct 4, 2007, 3:35 p.m.: 20071031-IR-844070052RFA)

844 IAC 9-4-5 Responsibilities

Authority: IC 25-20-1-25

Affected: IC 25-20-1-25

Sec. 5. (a) Continuing education hours must be obtained within the biennial renewal period and may not be carried over from one (1) certification period to another.

(b) It is the responsibility of the certificate holder to notify the health professions bureau of courses completed to meet the continuing education requirements of IC 25-20-1-25.

(c) It is the responsibility of the certificate holder to prove that courses attended have been approved by the committee, the American Speech-Language-Hearing Association or the National Institute for Hearing Instrument Studies.

(d) The certificate holder shall maintain his or her continuing education records of a given biennium for a period of two (2) years following the end of that biennium. *(Medical Licensing Board of Indiana; 844 IAC 9-4-5; filed Apr 23, 1992, 5:00 p.m.: 15 IR 1955; readopted filed Nov 14, 2001, 2:47 p.m.: 25 IR 1317; readopted filed Oct 4, 2007, 3:35 p.m.: 20071031-IR-844070052RFA)*

Rule 5. Examinations

844 IAC 9-5-1 Examination

Authority: IC 25-20-1-23

Affected: IC 25-20-1

Sec. 1. (a) The examination required for registration shall be designed to demonstrate the applicant's adequate technical and practical qualifications, including, but not limited to, the following:

(1) Written tests of knowledge in areas such as physics of sound, anatomy and physiology of hearing, and the function of hearing aids, as these areas pertain to the fitting or selection and sale of hearing aids.

(2) Evidence of knowledge of situations in which it is commonly believed that a hearing aid is inappropriate.

(3) Practical tests of proficiency in the taking of earmold impressions.

(b) Improper conduct during the examination is reason for dismissal and failure of the applicant from the examination.

(c) A student should endeavor to successfully pass all portions of the hearing aid dealer exam within one (1) year. If the student fails the exam two (2) times, he or she may be required to appear before the committee with his or her sponsor before retaking the exam.

(d) If the student has not successfully completed the exam within one (1) year, he or she may reapply for a student hearing aid dealer certification and must retake all portions of the hearing aid dealer exam successfully in that year to become a hearing aid dealer. (*Medical Licensing Board of Indiana; 844 IAC 9-5-1; filed Mar 1, 1990, 4:55 p.m.: 13 IR 1179; readopted filed Dec 2, 2001, 12:30 p.m.: 25 IR 1319; readopted filed Oct 10, 2008, 8:57 a.m.: 20081105-IR-844080341RFA*)

844 IAC 9-5-2 Examination; retakes (Repealed)

Sec. 2. (*Repealed by Medical Licensing Board of Indiana; filed Dec 2, 2001, 12:30 p.m.: 25 IR 1320*)

Rule 6. Supervision; Standards of Conduct

844 IAC 9-6-1 Supervision of student hearing aid dealers

Authority: IC 25-20-1-23

Affected: IC 25-1-9; IC 25-20-1

Sec. 1. (a) Supervision means the direct and regular observation and instruction of the student hearing aid dealer by the sponsoring hearing aid dealer and that the sponsor and student shall be present in the same work setting. All tests and fittings performed by the student shall be personally monitored by the sponsor. The student shall meet at least once each working day with the sponsor to review all work performed by the student. This meeting must include the actual presence of the student and sponsor.

(b) It shall be the joint responsibility of the student and the sponsor to see that all testing and sales documents pertinent to each sale, whether or not the sale was consummated, are submitted to and reviewed by the sponsor for the term of the student certificate.

(c) The committee may require a student or sponsor to show proof of the student's training and/or the sponsor's supervision.

(d) A student hearing aid dealer shall clearly identify himself or herself as a student when performing his or her duties prior to any impression taking, testing, or hearing aid fitting.

(e) A student shall prominently display his or her certificate of registration as a student hearing aid dealer in the primary location of his or her employment.

(f) Any violation of these requirements and standards shall subject the student and sponsor to disciplinary action as provided in IC 25-1-9. (*Medical Licensing Board of Indiana; 844 IAC 9-6-1; filed Mar 1, 1990, 4:55 p.m.: 13 IR 1179; readopted filed Dec 2, 2001, 12:30 p.m.: 25 IR 1319; readopted filed Oct 4, 2007, 3:35 p.m.: 20071031-IR-844070052RFA*)

844 IAC 9-6-2 Standards of unprofessional conduct

Authority: IC 25-20-1-23

Affected: IC 25-20-1

Sec. 2. The following acts, if performed by a hearing aid dealer or a student hearing aid dealer, shall constitute grounds for

disciplinary action:

- (1) Aiding and abetting a person to fit and/or dispense hearing aids who does not hold a proper registration or student registration.
- (2) Fraudulent billing practices.
- (3) Attaching the description "audiologist", "doctor", "physician", or similar terms or abbreviations to a name indicating or inducing others to believe that the person is engaged in the practice of another profession.
- (4) Use of any symbol or depiction which connotes the medical or audiological profession.
- (5) Use of any terms that could reasonably mislead the public that a private business practice has some relationship to a governmental or nonprofit medical, educational, or research institution or entity.
- (6) Use, cause, or promote the use of any advertising media, promotional literature, testimonial, guarantee, warranty, label, brand, insignia, or any other representation, however disseminated or published, which is misleading, deceiving, or untruthful.

Included among the foregoing acts are misrepresentations relating to:

- (A) the grade, quality, quantity, origin, novelty, price, dealer cost, terms of sale, use, construction, size, composition, dimensions, type, design, development, visibility, durability, performance, fit, appearance, efficacy, benefits of any hearing aid, or the psychological well-being induced by a hearing aid; or
 - (B) any service or adjustment offered, promised, or supplied to purchasers of any hearing aid.
- (7) Making representations in advertising or otherwise that a hearing aid is "guaranteed", without clear and conspicuous disclosure of:
 - (A) the nature and extent of the guarantee;
 - (B) any material conditions or limitations in the guarantee which are imposed by the guarantor;
 - (C) the manner in which the guarantor will perform thereunder;
 - (D) the identity, address, and telephone number of the guarantor, with disclosure, where applicable, that any guarantee made by the dealer which is not backed up by the manufacturer is offered by the dealer only; and
 - (E) the meaning of "life" or "lifetime" to clarify whether it refers to the life of the purchaser, the product, or otherwise, whenever representations are made that a hearing aid is "guaranteed for life" or has a "lifetime guarantee".
 - (8) Making guarantees, warranties, or any promises which, under normal conditions, are impractical of fulfillment or which are for such a period of time or are otherwise of such nature as may have the tendency to mislead purchasers into the belief that the hearing aid has a greater degree of serviceability, durability, or performance capability in actual use than is in fact true.
 - (9) Advertise a particular model, type, or kind of hearing aid for sale when purchasers or prospective purchasers responding to the advertisement cannot purchase or are dissuaded from purchasing the advertised model, type, or kind, where it is established that the purpose of the advertisement is to obtain prospects for the sale of a different model, type, or kind than that advertised.

(Medical Licensing Board of Indiana; 844 IAC 9-6-2; filed Mar 1, 1990, 4:55 p.m.: 13 IR 1180; readopted filed Nov 14, 2001, 2:47 p.m.: 25 IR 1317; readopted filed Oct 4, 2007, 3:35 p.m.: 20071031-IR-844070052RFA)

844 IAC 9-6-3 Standards of conduct

Authority: IC 25-20-1-23
Affected: IC 25-20-1

Sec. 3. A hearing aid dealer shall be required, but not be limited to, do the following:

- (1) Give a truthful, candid, and complete account of the client's condition to the client or to those responsible for the client's care.
- (2) Exercise reasonable care and diligence in providing services to clients based upon generally accepted scientific principles, methods, and current professional theory and practice.
- (3) Make reasonable efforts to obtain a consultation with a physician or audiologist whenever requested to do so by a client or by those responsible for a client's care.
- (4) Report unlawful activity of any other registrant or student to the committee or medical licensing board.
- (5) Maintain appropriate audiometric measurement equipment to assess hearing loss to include air conduction, bone conduction, speech reception thresholds, speech discrimination, MCLs and UCLs, and masking capability. He or she will also have appropriate tools to evaluate the condition of the external auditory canal and visualize the tympanic membrane. All evaluation equipment must be calibrated yearly if indicated.

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(6) Maintain an appropriate laboratory for the modification, repair, and/or cleaning of hearing aids and accessories.

(7) Maintain an appropriate filing system, which includes a client's personal and appropriate medical history, audiometric results, and hearing aid information (including warranties and spec sheets) as well as appropriate medical clearances or medical waivers.

(Medical Licensing Board of Indiana; 844 IAC 9-6-3; filed Mar 1, 1990, 4:55 p.m.: 13 IR 1180; readopted filed Dec 2, 2001, 12:30 p.m.: 25 IR 1319; readopted filed Oct 4, 2007, 3:35 p.m.: 20071031-IR-844070052RFA)

844 IAC 9-6-4 Failure to comply

Authority: IC 25-20-1-23

Affected: IC 25-20-1

Sec. 4. Failure to comply with sections 2 through 3 of this rule as a hearing aid dealer shall result in disciplinary proceedings against the offending practitioners. *(Medical Licensing Board of Indiana; 844 IAC 9-6-4; filed Mar 1, 1990, 4:55 p.m.: 13 IR 1181; readopted filed Nov 14, 2001, 2:47 p.m.: 25 IR 1317; readopted filed Oct 4, 2007, 3:35 p.m.: 20071031-IR-844070052RFA)*

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