

**REQUEST FOR CONSULTATION TO THE
JOINT LEGISLATIVE COMMISSION ON GOVERNMENTAL OPERATIONS
BY THE
NORTH CAROLINA HEARING AID DEALERS & FITTERS BOARD
*Revised November 28, 2006***

FEE INCREASE: Examination Fee
21 NCAC 22B .0603 – Fee Schedule

Amount of Current Fee	Amount of Proposed Fee
\$50.00	\$75.00

STATUTORY AUTHORITY: N.C. Gen. Stat. § 93D-3(c)(14)f. gives the Board the authority to set and collect fees for administering an examination. The fee cannot exceed \$75.00.

DETAILED EXPLANATION FOR FEE INCREASE:

Overview: In 1991, the General Assembly gave the Board the authority to impose various fees, including a fee for administering examinations.¹ The statutory maximum was set at \$75.00. In January 1992, the Board adopted an administrative rule setting the fee at \$50.00. The Board has not increased its examination fee since that time.

The Board's fiscal year begins on June 1 and ends on May 30. Exams are given twice per year in May and November. For Fiscal Year 01-02 through the first half of Fiscal Year 06-07, the average number of examinees was 80 applicants at a cost of \$50.00 per exam. Therefore, the Board averages \$4,000.00 per year in exam fees. Raising the exam fee to the statutory maximum of \$75.00 will increase the Board's revenues by approximately \$2,000.00 per year.

Additional Detail: From 1969 to 2006, the Board has administered an exam that had been developed by members of the Board and an *ad hoc* group representing the regulated community. The exam was administered by private individuals under contract with the Board.

In 2005, the Board established a Committee to consider contracting with a provider for development and administration of the exam. As part of its deliberations, the Committee was aware of litigation that has challenged the validity of examinations.²

¹ N.C. Session Law 1991-592, Sec. 1.

² In the 1970's and 1980's, there was considerable litigation throughout the nation challenging the validity of professional examinations. Initially, it involved State Bar examinations for licensure of attorneys. See *Goldfarb v. Virginia State Bar*, 421 U.S. 773 (1975). In *Richardson v. McFadden*, 540 F.2d 744 (4th Cir. 1976), the Fourth Circuit Court of Appeals required "statistical evidence" and efforts by the Bar Examiners "to intelligently relate the examination questions to the skills involved in the practice of law ...to satisfy the demands of the Fourteenth Amendment." Since these cases, statistical validity has been raised in teacher credentialing, [*U.S. v. State of N.C.*, 425 F.Supp. 789 (1977)]; medical boards [*Dept. of Prof Reg., Board of Medical Examiners v. Duranni*, 455 So. 2d 215 (Fla. App. Dist. 1 1984)]; and other professions. The use of a professional testing company has been upheld. See *Ponzio v. Anderson*, 499 F.Supp. 407 (N.D. Ill. 1980); *Licensed Acupuncturist v.*

In 2006, the Board contracted with Castle Worldwide, Inc. to provide test administration and scoring services. The fee increase will offset the cost of administering the exam. However, this increase will not cover the entire cost of the examination administration. Under the contract with Castle Worldwide, Inc., the cost of the written portion of the exam varies from \$49.00 to \$83.00, depending upon the number of examinees.³ In addition, the practical portion of the exam costs \$135.00 per examinee. Therefore the total cost for exam administration will be between \$184.00 and \$218.00 per examinee. The increase of the fee by administrative rule will not be sufficient to cover these costs. For this reason, the Board will also be requesting a legislative increase in the exam fee.

Regents of University, 602 N.Y.S.2d 945 (A.D.3 Dept. 1993).

³ For 1-30 examinees, the cost is \$83.00. For 31 or more, the cost is \$49.00.