



State of North Carolina

Department of Justice
PO Box 629
Raleigh, North Carolina
27602

REPLY TO: VALERIE L. BATEMAN
SERVICE TO STATE AGENCIES
TEL: (919) 716-6800
FAX: (919) 716-6755
TDD: (919) 715-5704
E-MAIL: VBATEMAN@NCDOJ.COM

ROY COOPER
ATTORNEY GENERAL

23 October 2008

Representative Joe Hackney
Senator Marc Basnight
Chairs, Joint Legislative Commission on Governmental Operations
NC General Assembly
16 West Jones Street
Raleigh, NC 27601

RE: N.C. State Board of Hearing Aid Fitters & Dealers
Proposed Rule Change for 21 NCAC 22B .0603

CORRECTED

Dear Representative Hackney and Senator Basnight:

This letter is a corrected request for consultation, submitted on behalf of the above-referenced board, pursuant to G.S. 12-3.1.

1. The Board's rule currently provides that the Board charges seventy-five (\$75) to each applicant who sits for the Board's examination required to obtain a license to fit and sell hearing aids. The Board's rule also currently provides that the Board charges one hundred and fifty dollars (\$150) for the annual license renewal.
2. The Board sought and was granted statutory authority to increase its fee for taking the examination for the fitting and selling of hearing aids to three hundred dollars (\$300). The Board also sought and was granted statutory authority to increase its fee for annual license renewal to two hundred and fifty dollars (\$250).
3. The statutory authority for these fee increases is Session Law 2007-406 (attached).
4. The Board is receipt-supported and increasing costs incurred in maintaining the level of services that the Board is charged by the General Assembly with providing, including the costs of validating and developing the licensure examination, have increased to the point that an increase in the fees was necessary in order for the Board to maintain a balanced budget.

Letter to Joint Legislative Commission on Governmental Operations
October 23, 2008
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Thank you in advance for your consideration of the request for consultation.

Sincerely,

A handwritten signature in black ink that reads "Valerie L. Bateman". The signature is written in a cursive, flowing style.

Valerie L. Bateman
Special Deputy Attorney General

VLB/s

cc: Johnnie Sexton, President, NCBHAFD
Catherine Jorgensen, Administrator, NCBHAFD
Members of the Joint Legislative Commission on Governmental Operations
Commission Assistant
General Assembly Fiscal Research Division

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3 **Proposed Amendment for Publication in the Register**

4 **21 NCAC 22B .0603 is proposed to be amended as follows:**

5 **.0603 FEE SCHEDULE**

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7 The Board hereby establishes the following fees:

- | | | |
|---------|--|---------------------------------|
| 8 (1) | For a continuing education make-up class provided | 50.00 |
| 9 | by the Board, not to exceed two days (per person, | |
| 10 | per day). | |
| 11 (2) | For a license examination preparation course | 50.00 |
| 12 | provided by the Board, not to exceed three days | |
| 13 | (per person, per day). | |
| 14 (3) | For approval of a continuing education program | 40.00 |
| 15 | provider. | |
| 16 (4) | Verifying and recording attendance at a continuing | 15.00 |
| 17 | education program (per program, per person). | |
| 18 (5) | For a voluntary apprentice training workshop (per | 50.00 |
| 19 | person, per day, not to exceed three days). | |
| 20 (6) | Examination fee. | 75.00 <u>300.00</u> |
| 21 (7) | Application for a license by examination. | 150.00 |
| 22 (8) | Application for a license to fit and sell hearing | 150.00 |
| 23 | aids in this state by a licensee of another state | |
| 24 | or territory. | |
| 25 (9) | Issuance of certificate of license after | 25.00 |
| 26 | successfully passing examination. | |
| 27 (10) | Application for registration as an apprentice | 100.00 |
| 28 (11) | Renewal of apprentice registration. | 150.00 |
| 29 (12) | Annual license renewal. | 150.00 <u>250.00</u> |
| 30 (a) | Late fee to reinstate expired license | 25.00 |
| 31 | within 60 days after license expiration (in | |
| 32 | addition to renewal fee). | |
| 33 (b) | Late fee to reinstate expired license more | 50.00 |
| 34 | than 60 days after license expiration (in | |
| 35 | addition to renewal fee). | |
| 36 (13) | To reissue a suspended license more than 90 days | 200.00 |
| 37 | after but not more than two years after license | |
| 38 | suspended. | |

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40 Authority G.S. 12-3.1; 93D-3;

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42 **NOTES:**

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44 *History Note:*

45 *Temporary Adoption Eff. July 11, 1991, For a Period of 180 Days to Expire on January 7, 1992;*

46 *Eff. January 1, 1992;*

47 *Amended Eff. March 1, 2001. Amended Eff. March 1, 2009.*

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007**

**SESSION LAW 2007-406
SENATE BILL 1332**

AN ACT AUTHORIZING THE NORTH CAROLINA STATE HEARING AID DEALERS AND FITTERS BOARD TO INCREASE CERTAIN FEES AND AMENDING AND UPDATING CERTAIN OTHER PROVISIONS UNDER THE LAWS REGULATING HEARING AID DEALERS AND FITTERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 93D-3(c)(14)f. reads as rewritten:

"(c) The Board shall:

(14) Have the power to set and collect fees in accordance with Chapter 150B of the General Statutes for the items listed in this subdivision and for other items for which this Chapter gives the Board the authority to set a fee:

f. For administering an examination, a fee ~~not to exceed seventy-five dollars (\$75.00);~~ of three hundred dollars (\$300.00); and

SECTION 2. G.S. 93D-3(d) reads as rewritten:

"(d) ~~Out of the funds coming into the possession of said Board, each member thereof may receive as reimbursement for each day he is actually engaged in the assigned duties of his office, the sum of eight cents (8¢) per mile for travel plus the actual costs of meals and public lodging while away from home, which costs of meals and lodging may not exceed twenty dollars (\$20.00) per day. Such~~ Members of the Board shall be entitled to travel, per diem, and other expenses authorized by G.S. 93B-5. The expenses shall be paid from the fees and assessments received by the Board under the provisions of this Chapter. No part of these expenses or any other expenses of the Board, in any manner whatsoever, shall be paid out of the State treasury. All moneys received in excess of expense allowance and mileage, as above provided, shall be held by the secretary-treasurer as a special fund for meeting other expenses of the Board and carrying out the provisions of this Chapter.

~~The secretary-treasurer shall give a bond to the Board to be approved by the Board, in the sum of five thousand dollars (\$5,000) conditioned upon the faithful performance of the duties of his office.~~

The Board shall make an annual report of its proceedings ~~to the Governor on the first Monday in June of each year, which report shall contain an account of all moneys received and disbursed by the Board and a complete listing of names and addresses of all licensees and apprentices. Copies of the report and list of licensees and apprentices shall be filed in the office of the State Auditor, the Secretary of State, and Attorney General in accordance with G.S. 93B-2."~~

SECTION 3. G.S. 93D-5 reads as rewritten:

"(a) No person shall begin the fitting and selling of hearing aids in this State unless the person has been issued a license by the Board or is an apprentice working under the supervision of a licensee. Except as hereinafter provided, each applicant for a license shall pay a fee set by the Board, not to exceed ~~one hundred fifty dollars (\$150.00);~~ two hundred fifty dollars (\$250.00), which fee may be prorated by the Board, and shall show to the satisfaction of the Board that the applicant:

- (1) Is a person of good moral ~~character,~~ character.
- (2) Is 18 years of age or ~~older,~~ older.
- (3) Has an education equivalent to a four-year course in an accredited high ~~school,~~ school.
- (4) ~~Is free of contagious or infectious disease.~~

(b) Except as hereinafter provided, no license shall be issued to a person until he has successfully passed a qualifying examination administered by the Board.

(c) No license shall be issued to any person until ~~he~~ the person has served as an apprentice as set forth in G.S. 93D-9 for a period of at least one year; provided, that this subsection shall not apply to those persons qualified under G.S. 93D-6 nor to those persons holding ~~masters degrees~~ a license in Audiology issued by the North Carolina Board of Examiners for Speech and Language Pathologist and Audiologist who have undergone 250 hours of supervised activity fitting and selling hearing aids under the direct supervision of a licensed hearing aid ~~dealer~~ dispenser approved by the Board, or have met the licensure requirements under Article 22 of Chapter 90 of the General Statutes and have worked full time for one year fitting and selling hearing aids in the office of and under the direct supervision of an otolaryngologist and have participated in 250 hours of Board-supervised, continuing professional education in fitting hearing aids."

SECTION 4. G.S. 93D-11 reads as rewritten:

"§ 93D-11. Annual fees; failure to pay; expiration of license; occupational instruction courses.

Every licensed person who engages in the fitting and selling of hearing aids shall pay to the Board an annual license renewal fee in an amount set by the Board, not to exceed ~~one hundred fifty dollars (\$150.00).~~ ~~Such~~ two hundred fifty dollars (\$250.00). The payment shall be made prior to the first day of April in each year. In case of default in payment the license shall expire 30 days after notice by the secretary-treasurer to the last known address of the licensee by registered ~~mail,~~ mail, certified mail, or in a manner provided by G.S. 1A-1, Rule 4(j)(1)d. The Board may reinstate an expired license upon the showing of good cause for late payment of fees, upon payment of said fees within 60 days after expiration of the license, and upon the further payment of a late penalty of twenty-five dollars (\$25.00). After 60 days after the expiration date, the Board may reinstate the license for good cause shown upon application for reinstatement and payment of a late penalty of fifty dollars (\$50.00) and the renewal fee. The Board may require all licensees to successfully attend and complete a course or courses of occupational instruction funded, conducted or approved or sponsored by the Board on an annual basis as a condition to any license renewal and evidence of satisfactory attendance and completion of any such course or courses shall be provided the Board by the licensee."

SECTION 5. G.S. 93D-13 reads as rewritten:

"§ 93D-13. Discipline, suspension, revocation of ~~licenses,~~ licenses; records.

(a) The Board may in its discretion administer the punishment of private reprimand, suspension of license for a fixed period or revocation of license as the case may warrant in their judgment for any violation of the rules and regulations of the Board or for any of the following causes:

- (1) ~~Habitual drunkenness~~
- (2) Gross ~~incompetence~~ incompetence.
- (3) ~~Knowingly fitting and selling hearing aids while suffering with a contagious or infectious disease~~ Inability to perform the functions for which the person is licensed or substantial impairment of the person's ability to perform the functions for which the person is licensed by reason of physical or mental disability.
- (4) Commission of a criminal offense indicating professional ~~unfitness~~ unfitness.
- (5) The use of a false name or alias in ~~his business~~ his or her business.
- (6) Conduct involving willful ~~deceit~~ deceit.
- (7) Conduct involving fraud or any other business conduct involving moral ~~turpitude~~ turpitude.
- (8) Advertising of a character or nature tending to deceive or mislead the ~~public~~ public.

- (9) Advertising declared to be unethical by the Board or prohibited by the code of ethics established by the ~~Board~~Board.
- (10) Permitting another person to use ~~his license, his or her license.~~
- (10a) Failure by a licensee to properly supervise an apprentice under ~~his supervision, and his or her supervision.~~
- (11) For violating any of the provisions of this Chapter.

(b) Board action in revoking or suspending a license shall be in accordance with Chapter 150B of the General Statutes. Any person whose license has been suspended for any of the grounds or reasons herein set forth, may, after the expiration of 90 days but within two years, apply to the Board to have the same reissued; upon a showing satisfactory to the Board that ~~such~~ reissuance will not endanger the public health and welfare, the Board may reissue a license to such person for a fee set by the Board, not to exceed two hundred dollars (\$200.00). If application is made subsequent to two years from date of suspension, reissuance shall be in accordance with the provisions of G.S. 93D-8.

(c) Records, papers, and other documents containing information collected or compiled by or on behalf of the Board as a result of an investigation, inquiry, or interview conducted in connection with registration, licensure, or a disciplinary matter shall not be considered public records within the meaning of Chapter 132 of the General Statutes. Any notice or statement of charges, notice of hearing, or decision rendered by the Board in connection with a hearing is a public record. However, information that identifies a consumer who has not consented to the public disclosure of services rendered to the consumer by a person registered or licensed under this Chapter shall be deleted from the public record. All other records, papers, and documents containing information collected or compiled by or on behalf of the Board shall be public records, provided that any information that identifies a consumer who has not consented to the public disclosure of services rendered to the consumer is deleted."

SECTION 6. This act is effective when it becomes law.

2007. In the General Assembly read three times and ratified this the 2nd day of August,

s/ Beverly E. Perdue
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 3:33 a.m. this 21st day of August 2007