

1 SB69
2 147771-1
3 By Senator Brewbaker
4 RFD: Governmental Affairs
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SYNOPSIS: Under existing law, the Board of Hearing Instrument Dealers is the entity responsible for licensing persons to engage in the fitting and sale of hearing instruments in the state.

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

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

This bill would further clarify reciprocity requirements.

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

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

This bill would also make technical 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 authorize the board to provide for
15 fees pursuant to administrative rule.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

21 "§34-14-1.

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

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

1 under the direct supervision of a hearing instrument dispenser
2 or fitter when designated by the sponsoring dispenser.

3 "~~(1)~~(2) APPRENTICE PERMIT. A permit issued while the
4 applicant is in training to become a licensed hearing
5 instrument fitter.

6 "~~(2)~~(3) BOARD. The Board of Hearing Instrument
7 Dealers.

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

12 "(4) BOARD CERTIFIED - HEARING INSTRUMENT SPECIALIST
13 (BC-HIS). A person who has met the requirements of national
14 board certification and who maintains current national board
15 certification.

16 "(5) DIRECT SUPERVISION. On-site and close contact
17 whereby a supervisor is able to respond quickly to the needs
18 of the patient or client receiving care or of the supervisee.

19 "~~(4)~~(6) DISPENSER. Any trained person who ~~shall meet~~
20 has met all requirements of this chapter for licensure and who
21 may engage in the practice of fitting and dealing in hearing
22 instruments without the direct supervision of any person.

23 "~~(5)~~(7) FITTER. A trained, licensed person who ~~shall~~
24 may engage in the practice of fitting and dealing in hearing
25 instruments ~~only~~ under the ~~direct~~ indirect supervision of a
26 hearing instrument dispenser.

1 "~~(6)~~(8) HEARING INSTRUMENT. Any wearable instrument
2 or device designed for or offered for the purpose of aiding or
3 compensating for impaired human hearing ~~excluding assistive~~
4 ~~listening devices.~~

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

9 "~~(7)~~(10) LICENSE. A license issued by the board
10 under this chapter to a hearing instrument fitter or
11 dispenser.

12 "~~(8)~~(11) PRACTICE OF FITTING AND DEALING IN HEARING
13 INSTRUMENTS. The measurement of human hearing by means of an
14 audiometer or by other means approved by the board solely for
15 the purpose of making selections, adaptations, or sale of
16 hearing instruments. The term also includes the making of
17 impressions for earmolds. A licensee or permit holder, at the
18 request of a physician or a member of related professions, may
19 make audiograms for the professional's use in consultation
20 with the hard-of-hearing.

21 "~~(9)~~(12) SELL or SALE. Any transfer of title or of
22 the right to use by lease, bailment, or any other contract,
23 excluding wholesale transactions with distributors or dealers.

24 "§34-14-2.

25 "(a) No person shall engage in the sale of or
26 practice of fitting hearing instruments or display a sign or
27 in any other way advertise or represent himself or herself as

1 a person who practices the fitting and sale of hearing
2 instruments unless the person holds a license or permit issued
3 by the board as provided in this chapter. The license or
4 permit shall be conspicuously posted in his or her office or
5 place of business. Duplicate licenses or permits may be issued
6 by the board to valid license holders operating more than one
7 office, upon additional payment determined by the board for
8 each additional office. A license under this chapter shall
9 confer upon the holder the right to select, fit, and sell
10 hearing instruments.

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

1 "(c) Nothing in this chapter shall apply to
2 physicians licensed to practice medicine in this state or
3 employees under the supervision of a physician licensed to
4 practice medicine, or to the professional corporation or
5 professional association of such physicians.

6 "(d) Nothing in this chapter shall apply to ~~licensed~~
7 speech pathologists or to ~~licensed~~ audiologists licensed in
8 this state.

9 "§34-14-3.

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

18 "(b) An applicant who fulfills the requirements
19 regarding age, character, education, and health, as set forth
20 in subsection (a) of Section 34-14-4, and who shall provide
21 proof of having met all state qualifying examination
22 requirements and requirements of certification as a national
23 board certified hearing instrument specialist shall be issued
24 a dispenser's license. ~~All applicants who have current valid~~
25 ~~Alabama dealer's and fitter's licenses as of July 3, 1991,~~
26 ~~shall have five years from the date to obtain the requirements~~
27 ~~for certification. After the expiration of the five-year~~

1 ~~period, an applicant not providing proof of having met all~~
2 ~~requirements for certification as a national board certified~~
3 ~~hearing instrument specialist shall not be issued a~~
4 ~~dispenser's license but shall instead be issued a fitter's~~
5 ~~license.~~

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

1 "(1) That the applicant is currently licensed as a
2 hearing aid specialist, hearing aid dispenser, hearing aid
3 dealer, or hearing aid fitter under the laws of another state
4 or the District of Columbia.

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

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

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

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

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

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

26 "(f) The holder of a certificate of endorsement
27 shall be registered in the same manner as a licensee. The fee

1 for an initial certificate of endorsement shall be the same as
2 the fee for an initial license. Fees, grounds for renewal, and
3 procedures for the suspension and revocation of a certificate
4 of endorsement shall be the same as the fees, grounds for
5 renewal, and procedures for the suspension of a license.

6 "§34-14-4.

7 "(a) Applicants may obtain a license by successfully
8 passing a qualifying examination; provided, that the applicant
9 satisfies all of the following requirements:

10 "(1) Is at least 19 years of age~~7.~~

11 "(2) Is of good moral character~~7.~~

12 "(3) Has an education equivalent to a four-year
13 course in an accredited high school~~7.~~

14 "(4) Is free of contagious or infectious disease~~7~~
15 and.

16 "(5) Is a citizen of the United States or, if not a
17 citizen of the United States, a person who is legally present
18 in the United States with appropriate documentation from the
19 federal government.

20 "(b) An applicant who meets the qualifications of
21 subsection (a) ~~hereof,~~ as determined by the board~~,~~ who applies
22 for license by examination shall appear at a time, place, and
23 before such persons as the board may designate to be examined
24 by means of written and practical tests in order to
25 demonstrate that he or she is qualified to practice the
26 fitting and sale of hearing instruments. ~~The examination~~
27 ~~administered as directed by the board constituting standards~~

1 ~~for licensing shall not be conducted in such a manner that~~
2 ~~college training is required in order to pass the examination.~~
3 ~~Nothing in this examination shall imply that the applicant~~
4 ~~shall possess the degree of medical competence normally~~
5 ~~expected of physicians.~~

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

8 "§34-14-5.

9 "(a) The qualifying examination provided in Section
10 34-14-4 shall be designed to demonstrate the applicant's
11 adequate technical qualifications by testing the applicant in
12 three separate sections consisting of a written examination, a
13 practical examination, and a state law examination. The board
14 may revise standards for the qualifying examination, so long
15 as the following minimum requirements are satisfied:

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

19 "~~(2) Practical tests of proficiency in the following~~
20 ~~techniques as they pertain to the fitting of hearing~~
21 ~~instruments:~~

22 "~~a. Pure tone audiometry, including air conduction~~
23 ~~testing and bone conduction testing,~~

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

25 "~~c. Recording and evaluation of audiograms to~~
26 ~~determine proper selection and adaptation of a hearing~~
27 ~~instrument, and~~

1 ~~"d. Taking earmold impressions.~~

2 "(1) Written examination scores from states with
3 existing reciprocity agreements with the board are valid for
4 12 months from the date of examination in the other state if
5 the examination is determined by the board to be similar in
6 content to the qualifying examination required for licensure
7 in Alabama.

8 "(2) An applicant who fails one or more sections of
9 the qualifying examination may retest failed sections by
10 sitting for the qualifying examination in the following
11 manner:

12 "a. An applicant who fails the written examination
13 section shall retake the entire written examination section.

14 "b. An applicant who fails the Alabama law section
15 shall retake the entire Alabama law section.

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

19 "d. An applicant who fails to successfully complete
20 a retest pursuant to paragraph a., b., or c., or any
21 combination of these, may retake the entire three-section
22 qualifying examination within one year from the initial
23 testing.

24 "e. The three-section qualifying examination may not
25 include questions requiring a medical or surgical education.
26 The purpose of the examination, at a minimum, is to provide
27 the opportunity for a person with a high school level

1 education, or its equivalent, with appropriate study through
2 the apprentice training program, and training and supervision
3 under the direction of a licensee dispenser, to enter the
4 profession.

5 "f. The practical examination section of the
6 qualifying examination shall include all of the following
7 areas:

8 "(i) Pretest procedure.

9 "(ii) Pure tone air conduction and masking.

10 "(iii) Pure tone bone conduction and masking.

11 "(iv) Speech audiometry and masking.

12 "(v) Ear impressions.

13 "(vi) Audiogram interpretation and fitting.

14 "(vii) Troubleshooting hearing aids.

15 "§34-14-6.

16 "(a) Each person who engages in the fitting and sale
17 of hearing instruments shall annually, on or before January
18 30, pay to the board a fee as prescribed by rule of the board
19 for a renewal of his or her license and shall keep such
20 certificate conspicuously posted in his or her office or place
21 of business at all times. ~~The fee shall be \$100 for a fitter's~~
22 ~~license and \$150 for a dispenser's license.~~ Where more than
23 one office is operated by the licensee, duplicate certificates
24 shall be issued by the board for posting in each location upon
25 payment of the fee prescribed by rule of the board. A 30-day
26 grace period shall be allowed after January 30, during which
27 time licenses may be renewed on payment of a late fee of

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

13 "(b) The board shall ~~adopt and~~ maintain a program of
14 continuing education for its licensees ~~not later than October~~
15 ~~1, 1991, and after that date no.~~ No licensee shall have his or
16 her active license renewed unless, in addition to any other
17 requirements of this chapter, the minimum continuing annual
18 education requirements are met.

19 "§34-14-7.

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

26 "(b) Upon receiving an application as provided under
27 this section and accompanied by ~~a fee of one hundred dollars~~

1 ~~(\$100)~~ the required fees, the board shall issue an apprentice
2 permit which shall entitle the applicant to engage in the
3 fitting and sale of hearing instruments for a period of one
4 year under the direct supervision of a person holding a valid
5 Alabama dispenser license or fitter license, when designated
6 by the sponsor, provided the apprentice has ~~received 80 hours~~
7 ~~of academic and practical instruction under the direct~~
8 ~~supervision and immediate physical observation of the person~~
9 ~~holding a valid current Alabama hearing instrument dispenser's~~
10 ~~license. The licensed dispenser shall be totally responsible~~
11 ~~for the direct supervision and physical observation and~~
12 ~~training of the applicant thereafter~~ successfully completed
13 the International Institute for Hearing Instrument Studies
14 (IIHIS) distance learning program. A sponsoring dispenser is
15 responsible for the actions and training of the apprentice. An
16 apprentice permit may be renewed for an additional year, upon
17 terms and conditions established by the board. An applicant
18 may not be issued a second permit within a five-year period
19 following the expiration date of the initial permit.

20 "(c) An apprentice or applicant who successfully
21 completes the fitter's examination may obtain a fitter's
22 license upon application to the board, and payment of the
23 ~~license fee~~ required fees, which shall entitle the applicant
24 to engage in the sale or fitting of hearing instruments until
25 January 30th of the following year under the direct
26 supervision of a person holding a current Alabama hearing
27 instrument dispenser's license. The licensed dispenser shall

1 be totally responsible for the supervision of all activities
2 of the fitter pertaining to the sale and fitting of hearing
3 instruments, ~~upon payment of a one hundred dollar (\$100) fee.~~

4 "(d) The dispenser who is responsible for the
5 supervision and training of an apprentice shall not have more
6 than four apprentices under his or her supervision at any
7 time. There shall be no limitations on the number of fitters a
8 dispenser may have under his or her supervision at any given
9 time.

10 "(e) The dispenser responsible for the supervision
11 and training of any apprentice or fitter shall be subject to
12 administrative actions with respect to licensure and to civil
13 liability for all actions of an apprentice or fitter under his
14 or her supervision when the apprentice or fitter engages in
15 unethical, prohibited, fraudulent, deceptive, and misleading
16 conduct involving the fitting and dispensing of hearing
17 instruments.

18 "§34-14-8.

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

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

25 "(c) Any notice required to be given by the board to
26 a person who holds a license shall be mailed to him or her at

1 the address of the last place of business of which he or she
2 has notified the board.

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

7 "§34-14-9.

8 "(a) Any person wishing to make a complaint against
9 a licensee or apprentice under this chapter shall reduce the
10 same to writing and file his or her complaint with the board
11 within one year from the date of the action upon which the
12 complaint is based. If the board investigates and determines
13 the charges made in the complaint are sufficient to warrant a
14 hearing to determine whether the license issued under this
15 chapter shall be suspended or revoked, ~~it~~ the board shall make
16 an order fixing a time and place for a hearing and require the
17 licensee complained against to appear and defend against the
18 complaint. ~~The~~ A copy of the complaint shall be attached to
19 the order shall have annexed thereto a copy of the complaint.
20 The order and copy of the complaint shall be served upon the
21 licensee at least 20 days before the date set for hearing,
22 either personally or by registered or certified mail sent to
23 the ~~licensee's~~ last known address of the licensee.

24 Continuances or adjournment of the hearing date shall be made
25 ~~if~~ for good cause. At the hearing, the licensee complained
26 against may be represented by counsel. The licensee complained
27 against and the board may take depositions in advance of the

1 hearing and after service of the complaint, and either may
2 compel the attendance of witnesses by subpoenas issued by the
3 board under its seal. Either party taking depositions shall
4 give at least five days' written notice to the other party of
5 the time and place of such depositions, and the other party
6 may attend, with counsel if desired, and cross-examine.
7 Appeals from suspension or revocation may be made to the
8 circuit court. In the event of an appeal, there shall be a
9 trial de novo and the trial shall be before the court without
10 ~~the intervention of~~ a jury.

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

16 "(c) Any person registered under this chapter may
17 have his or her permit or license revoked or suspended by the
18 board, be reprimanded by the board, or be administratively
19 fined not more than one thousand dollars (\$1,000) per
20 violation by the board for any of the following causes:

21 "(1) The conviction of a felony or a misdemeanor
22 involving moral turpitude; the record of conviction or a
23 certified copy thereof, certified by the clerk of the court or
24 by the judge in whose court the conviction is ~~had~~ made, shall
25 be prima facie proof of such conviction.

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

1 "(3) Unethical conduct, including, any of the
2 following:

3 "a. ~~The obtaining of~~ Obtaining any fee or ~~the~~ making
4 ~~of~~ any sale by fraud or misrepresentation.

5 "b. Knowingly employing, directly or indirectly, any
6 suspended or unregistered person to perform any work covered
7 by this chapter.

8 "c. Using or causing or promoting the use of any
9 advertising matter, promotional literature, testimonial,
10 guarantee, warranty, label, brand, insignia, or any other
11 representation, however disseminated or published, which is
12 misleading, deceptive, or untruthful.

13 "d. Advertising a particular model or type of
14 hearing instrument for sale when purchasers or prospective
15 purchasers responding to the advertisement ~~cannot~~ are not able
16 to purchase the advertised model or type, where it is
17 established that the purpose of the advertisement is to obtain
18 prospects for the sale of a different model or type than that
19 advertised.

20 "e. Representing that the service or advice of a
21 person licensed to practice medicine shall be used or made
22 available in the selection, fitting, adjustment, maintenance,
23 or repair of hearing instruments when that is not true, or
24 using the words "doctor," "clinic," or similar words,
25 abbreviations, or symbols which tend to connect the medical
26 profession when such use is not accurate.

27 "f. Habitual intemperance.

1 "g. Gross immorality.

2 "h. Permitting ~~another's~~ the use of a license by
3 another.

4 "i. Advertising ~~a manufacturer's~~ the name or
5 trademark of a manufacturer which implies a relationship with
6 the manufacturer that does not exist.

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

15 "(4) Conducting business while suffering from a
16 contagious or infectious disease.

17 "(5) Engaging in the fitting and sale of hearing
18 instruments under a false name or alias with fraudulent
19 intent.

20 "(6) Selling a hearing instrument to a person who
21 has not been given tests utilizing appropriate established
22 procedures and instrumentation in fitting of hearing
23 instruments, except in cases of selling replacement hearing
24 instruments.

25 "(7) Gross incompetence or negligence in fitting and
26 selling hearing instruments.

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

1 "(d) The board may bring an action to enjoin any
2 person, firm, or corporation who, without being licensed or
3 issued a permit by the board, dispenses hearing instruments in
4 this state. The action shall be filed in the county in which
5 ~~such~~ the person resides or practices or in the county where
6 the firm or corporation maintains an office or practices.
7 Notwithstanding any other provision of law to the contrary,
8 after notice and hearing, the board may issue a cease and
9 desist order prohibiting any person from violating this
10 chapter by engaging in the practice of ~~dealing~~, fitting,
11 selling, or dispensing hearing instruments without a license.

12 "§34-14-11.

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

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

16 "(2) Register persons who apply to the board who are
17 qualified to engage in the fitting and sale of hearing
18 instruments;

19 "(3) Administer, coordinate, and enforce this
20 chapter, evaluate the qualifications and supervise the
21 examinations of applicants for licensure under this chapter,
22 issue and renew licenses and permits under this chapter, and
23 investigate allegations of violations of this chapter;

24 "(4) Promulgate rules and regulations necessary to
25 carry out the provisions of this chapter and to establish
26 consumer protection provisions, provisions for prohibited
27 practices, and requirements for businesses;

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

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

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

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

11 "§34-14-30.

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

14 "(b) Members of the board shall be citizens and
15 residents of the state and appointed by the Governor. The
16 membership of the commission shall be inclusive and reflect
17 the racial, gender, geographic, urban/rural, and economic
18 diversity of the state. The board shall consist of eight
19 members as follows: Five licensees, one of whom may be a
20 fitter, one physician who specializes in diseases of the ear,
21 one audiologist, and one consumer member. The consumer member
22 shall have the same powers as other board members, except that
23 the consumer member shall have no voting powers in matters of
24 issuing, suspending, or revoking licenses, and neither the
25 consumer member, nor his or her spouse, shall be a hearing
26 instrument fitter or dispenser. Each hearing instrument fitter
27 or dispenser on the board shall have no less than three years

1 of experience and shall hold a valid license as a hearing
2 instrument fitter or dispenser, as provided under this
3 chapter. No member of the board shall be from the same
4 business or firm of another board member, and no member shall
5 be the spouse or immediate family member of another board
6 member.

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

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

24 "(e) Members of the board shall receive for each day
25 actually engaged in the duties of the office a per diem ~~amount~~
26 ~~of twenty-five dollars (\$25), not to exceed the sum of one~~
27 ~~thousand dollars (\$1,000) per year,~~ and reimbursement for

1 traveling expenses as provided in Article 2 of Chapter 7 of
2 Title 36, and other expenses, the remuneration and
3 reimbursement to be paid from appropriations made for this
4 purpose.

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

10 "§34-14-32.

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

15 "§34-14-33.

16 "(a) ~~On or before the tenth day of each month~~ Within
17 a week after receiving funds, the board shall pay into the
18 State Treasury all moneys received by it under this chapter
19 during the preceding calendar month. The State Treasury shall
20 credit the moneys to the Board of Hearing Instrument Dealers
21 Account, which account is hereby created.

22 "(b) The moneys in the ~~State Board of Health Hearing~~
23 ~~Aid Account shall, on June 1, 1994, be transferred to the~~
24 ~~account of the~~ Board of Hearing Instrument Dealers Account
25 shall remain, and the board may use funds in the account for
26 the purpose of paying the expenses of administering and
27 enforcing the provisions of this chapter."

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

3 §34-14-34.

4 (a) The board shall establish fees by rule adopted
5 pursuant to the Administrative Procedure Act. The board may
6 impose fees of not less than twenty-five dollars (\$25) nor
7 more than one thousand dollars (\$1,000) for each of the
8 following:

9 (1) Initial application fee for an apprentice
10 permit, fitters license, and dispensers license.

11 (2) License fee for a fitters license and for a
12 dispensers license.

13 (3) Renewal fee for the renewal of a fitters license
14 and the renewal of a dispensers license.

15 (4) Permit fee for an apprentice permit.

16 (5) Renewal fee for an apprentice permit.

17 (6) Qualifying examination and retest examination
18 fees.

19 (7) Late filing fee for a business statement of
20 compliance.

21 (8) Late renewal fee.

22 (9) Reinstatement license fee.

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

24 (11) Replacement license, certificate, or permit
25 fee.

26 (12) Verification of license fee.

27 (13) Mailing list fee.

1 (14) Returned check fee.

2 (15) Special assessment fee.

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

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