

1 SB390
2 158779-2
3 By Senator Holley
4 RFD: Health
5 First Read: 20-FEB-14

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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.
27

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 instrument dispenser or
3 hearing aid specialist when designated by the sponsoring
4 dispenser.

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

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

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

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

17 ~~"(4)(5)~~ DISPENSER. Any trained person who ~~shall meet~~
18 has met all requirements of this chapter for licensure and who
19 may engage in the practice of fitting and dealing in hearing
20 instruments without the direct supervision 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 INSTRUMENT. Any wearable instrument or
26 device designed for or offered for the purpose of aiding or

1 compensating for impaired human hearing ~~excluding assistive~~
2 ~~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 instrument dispenser.

7 "(8) HEARING INSTRUMENT SPECIALIST. A person who has
8 met the requirements of national board certification and who
9 maintains current national board certification.

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

14 "~~(7)~~(10) LICENSE. A license issued by the board
15 under this chapter to a hearing ~~instrument fitter aid~~
16 specialist or dispenser.

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

1 "~~(9)~~(12) SELL or SALE. Any transfer of title or of
2 the right to use by lease, bailment, or any other contract,
3 excluding wholesale transactions with distributors or dealers.

4 "§34-14-2.

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

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

1 corporations, partnerships, trusts, associations, or other
2 like organizations shall file annually with the board a list
3 of all licensed hearing instrument dispensers, ~~fitters~~ hearing
4 aid specialists, and apprentices directly or indirectly
5 employed by them. Such organizations shall also file with the
6 board a statement on a form approved by the board that they
7 submit themselves to the rules and regulations of the board
8 and the applicable provisions of this chapter.

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

14 "(d) Nothing in this chapter shall apply to ~~licensed~~
15 speech pathologists or to ~~licensed~~ audiologists licensed in
16 this state.

17 "§34-14-3.

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

26 "(b) An applicant who fulfills the requirements
27 regarding age, character, education, and health, as set forth

1 in subsection (a) of Section 34-14-4, and who shall provide
2 proof of having met all state qualifying examination
3 requirements and requirements of certification as a national
4 board certified hearing instrument specialist shall be issued
5 a dispenser's license. ~~All applicants who have current valid~~
6 ~~Alabama dealer's and fitter's licenses as of July 3, 1991,~~
7 ~~shall have five years from the date to obtain the requirements~~
8 ~~for certification. After the expiration of the five-year~~
9 ~~period, an applicant not providing proof of having met all~~
10 ~~requirements for certification as a national board certified~~
11 ~~hearing instrument specialist shall not be issued a~~
12 ~~dispenser's license but shall instead be issued a fitter's~~
13 ~~license.~~

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

1 ~~the same manner as licensees. The fee for an initial~~
2 ~~certificate of endorsement shall be the same as the fee for an~~
3 ~~initial license. Fees, grounds for renewal, and procedures for~~
4 ~~the suspension and revocation of certificates of endorsement~~
5 ~~shall be the same as for renewal, suspension, and revocation~~
6 ~~of a license. An applicant for licensure by reciprocity shall~~
7 ~~submit to the board, in form and content satisfactory to the~~
8 ~~board, written proof of all of the following:~~

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

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

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

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

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

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

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

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

15 "§34-14-4.

16 "(a) Applicants may obtain a license by successfully
17 passing a qualifying examination; provided, that the
18 applicant:

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

20 "(2) Is of good moral character;

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

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

24 and

25 "(5) Is a citizen of the United States or, if not a
26 citizen of the United States, a person who is legally present

1 in the United States with appropriate documentation from the
2 federal government.

3 "(b) An applicant who meets the qualifications of
4 subsection (a) ~~hereof~~ as determined by the board who applies
5 for license by examination shall appear at a time, place, and
6 before such persons as the board may designate to be examined
7 by means of written and practical tests in order to
8 demonstrate that he or she is qualified to practice the
9 fitting and sale of hearing instruments. ~~The examination~~
10 ~~administered as directed by the board constituting standards~~
11 ~~for licensing shall not be conducted in such a manner that~~
12 ~~college training is required in order to pass the examination.~~
13 ~~Nothing in this examination shall imply that the applicant~~
14 ~~shall possess the degree of medical competence normally~~
15 ~~expected of physicians.~~

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

18 "§34-14-5.

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

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

4 ~~"(2) Practical tests of proficiency in the following~~
5 ~~techniques as they pertain to the fitting of hearing~~
6 ~~instruments:~~

7 ~~"a. Pure tone audiometry, including air conduction~~
8 ~~testing and bone conduction testing,~~

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

10 ~~"c. Recording and evaluation of audiograms to~~
11 ~~determine proper selection and adaptation of a hearing~~
12 ~~instrument, and~~

13 ~~"d. Taking earmold impressions.~~

14 "(1) Written examination scores from states with
15 existing reciprocity agreements with the board are considered
16 valid for 12 months from the date of examination in the other
17 state if the examination is determined by the board to be
18 similar in content to the qualifying examination required for
19 licensure in Alabama.

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

23 "a. An applicant who fails the written examination
24 section shall retake the entire written examination section.

25 "b. An applicant who fails the Alabama law section
26 shall retake the entire Alabama law section.

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

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

8 "e. The three-section qualifying examination may not
9 include questions requiring a medical or surgical education.
10 The purpose of the examination, at a minimum, is to provide
11 the opportunity for a person with a high school level
12 education, or its equivalent, with appropriate study through
13 the apprentice training program and training and supervision
14 under the direction of a licensee dispenser, to enter the
15 profession.

16 "f. The practical examination section of the
17 qualifying examination shall include all of the following
18 areas:

19 "(i) Pretest procedure.

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

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

22 "(iv) Speech audiometry and masking.

23 "(v) Ear impressions.

24 "(vi) Audiogram interpretation and fitting.

25 "(vii) Troubleshooting hearing aids.

26 "§34-14-6.

1 "(a) Each person who engages in the fitting and sale
2 of hearing instruments shall annually, on or before January
3 30, pay to the board a fee as prescribed by rule of the board
4 for a renewal of his or her license and shall keep such
5 certificate conspicuously posted in his or her office or place
6 of business at all times. ~~The fee shall be \$100 for a fitter's~~
7 ~~license and \$150 for a dispenser's license.~~ Where more than
8 one office is operated by the licensee, duplicate certificates
9 shall be issued by the board for posting in each location upon
10 payment of the fee prescribed by rule of the board. A 30-day
11 grace period shall be allowed after January 30, during which
12 time licenses may be renewed on payment of a late fee ~~of~~
13 ~~twenty-five dollars (\$25)~~ as prescribed by rule of the board,
14 in addition to the license renewal fee, to the board. After
15 expiration of the grace period, the license is expired and
16 thereafter may be reinstated and renewed within two years. The
17 board may renew such expired certificates upon payment of a
18 ~~one hundred dollar (\$100)~~ reinstatement fee as prescribed by
19 rule of the board, in addition to the license renewal fee, to
20 the board. No person who applies for renewal, whose license
21 has expired, shall be required to submit to any examination as
22 a condition to renewal; provided, that such renewal
23 application is made within two years from the date of such
24 expiration.

25 "(b) All fees collected by the board shall be set by
26 rule of the board. For calendar year 2015, no single fee shall
27 exceed two hundred fifty dollars (\$250). For any calendar year

1 thereafter, no single fee may be increased by more than 20
2 percent per year.

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

9 "§34-14-7.

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

16 "(b) Upon receiving an application as provided under
17 this section and accompanied by ~~a fee of one hundred dollars~~
18 ~~(\$100)~~ the required fees, the board shall issue an apprentice
19 permit which shall entitle the applicant to engage in the
20 fitting and sale of hearing instruments for a period of one
21 year under the direct supervision of a person holding a valid
22 Alabama dispenser license or hearing instrument specialist
23 license, when designated by the sponsor, provided the
24 apprentice has ~~received 80 hours of academic and practical~~
25 ~~instruction under the direct supervision and immediate~~
26 ~~physical observation of the person holding a valid current~~
27 ~~Alabama hearing instrument dispenser's license. The licensed~~

1 ~~dispenser shall be totally responsible for the direct~~
2 ~~supervision and physical observation and training of the~~
3 ~~applicant thereafter~~ successfully completed the International
4 Institute for Hearing Instrument Studies distance learning
5 program. A sponsoring dispenser is responsible for the actions
6 and training of the apprentice. An apprentice permit may be
7 renewed for an additional year, upon terms and conditions
8 established by the board. An applicant may not be issued a
9 second permit within a five-year period following the
10 expiration date of the initial permit.

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

23 (d) The dispenser who is responsible for the
24 supervision and training of an apprentice shall not have more
25 than four apprentices under his or her supervision at any
26 time. There shall be no limitations on the number of ~~fitters~~

1 hearing aid specialists a dispenser may have under his or her
2 supervision at any given time.

3 "(e) The dispenser responsible for the supervision
4 and training of any apprentice or ~~fitter~~ hearing aid
5 specialist shall be subject to administrative actions with
6 respect to licensure and to civil liability for all actions of
7 an apprentice or ~~fitter~~ hearing aid specialist under his or
8 her supervision when the apprentice or ~~fitter~~ hearing aid
9 specialist engages in unethical, prohibited, fraudulent,
10 deceptive, and misleading conduct involving the fitting and
11 dispensing of hearing instruments.

12 "§34-14-8.

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

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

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

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

27 "§34-14-9.

1 "(a) Any person wishing to make a complaint against
2 a licensee or apprentice under this chapter shall reduce the
3 same to writing and file his or her complaint with the board
4 within one year from the date of the action upon which the
5 complaint is based. If the board investigates and determines
6 the charges made in the complaint are sufficient to warrant a
7 hearing to determine whether the license issued under this
8 chapter shall be suspended or revoked, it shall make an order
9 fixing a time and place for a hearing and require the licensee
10 complained against to appear and defend against the complaint.
11 The order shall have annexed thereto a copy of the complaint.
12 The order and copy of the complaint shall be served upon the
13 licensee at least 20 days before the date set for hearing,
14 either personally or by registered or certified mail sent to
15 the licensee's last known address. Continuances or adjournment
16 of hearing date shall be made if for good cause. At the
17 hearing the licensee complained against may be represented by
18 counsel. The licensee complained against and the board may
19 take depositions in advance of hearing and after service of
20 the complaint, and either may compel the attendance of
21 witnesses by subpoenas issued by the board under its seal.
22 Either party taking depositions shall give at least five days'
23 written notice to the other party of the time and place of
24 such depositions, and the other party may attend, with counsel
25 if desired, and cross-examine. Appeals from suspension or
26 revocation may be made to the circuit court. In the event of

1 an appeal, there shall be a trial de novo and the trial shall
2 be before the court without the intervention of a jury.

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

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

13 "(1) The conviction of a felony or a misdemeanor
14 involving moral turpitude; the record of conviction or a
15 certified copy thereof, certified by the clerk of the court or
16 by the judge in whose court the conviction is ~~had~~ made, shall
17 be prima facie proof of such conviction.

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

19 "(3) Unethical conduct, including:

20 "a. The obtaining of any fee or the making of any
21 sale by fraud or misrepresentation.

22 "b. Knowingly employing, directly or indirectly, any
23 suspended or unregistered person to perform any work covered
24 by this chapter.

25 "c. Using or causing or promoting the use of any
26 advertising matter, promotional literature, testimonial,
27 guarantee, warranty, label, brand, insignia, or any other

1 representation, however disseminated or published, which is
2 misleading, deceptive, or untruthful.

3 "d. Advertising a particular model or type of
4 hearing instrument for sale when purchasers or prospective
5 purchasers responding to the advertisement cannot purchase the
6 advertised model or type, where it is established that the
7 purpose of the advertisement is to obtain prospects for the
8 sale of a different model or type than that advertised.

9 "e. Representing that the service or advice of a
10 person licensed to practice medicine shall be used or made
11 available in the selection, fitting, adjustment, maintenance,
12 or repair of hearing instruments when that is not true, or
13 using the words "doctor," "clinic," or similar words,
14 abbreviations, or symbols which tend to connect the medical
15 profession when such use is not accurate.

16 "f. Habitual intemperance.

17 "g. Gross immorality.

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

19 "i. Advertising a manufacturer's name or trademark
20 which implies a relationship with the manufacturer that does
21 not exist.

22 "j. Directly or indirectly giving or offering to
23 give, or permitting or causing to be given, money or anything
24 of value to any person who advises another in a professional
25 capacity as an inducement to influence him or her or have him
26 or her influence others to purchase or contract to purchase
27 products sold or offered for sale by a hearing instrument

1 dispenser, ~~fitter~~ hearing aid specialist, or apprentice, or
2 influencing persons to refrain from dealing in the products of
3 competitors.

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

6 "(5) Engaging in the fitting and sale of hearing
7 instruments under a false name or alias with fraudulent
8 intent.

9 "(6) Selling a hearing instrument to a person who
10 has not been given tests utilizing appropriate established
11 procedures and instrumentation in fitting of hearing
12 instruments, except in cases of selling replacement hearing
13 instruments.

14 "(7) Gross incompetence or negligence in fitting and
15 selling hearing instruments.

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

17 "(d) The board may bring an action to enjoin any
18 person, firm, or corporation who, without being licensed or
19 issued a permit by the board, dispenses hearing instruments in
20 this state. The action shall be filed in the county in which
21 such person resides or practices or in the county where the
22 firm or corporation maintains an office or practices.

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

1 "§34-14-11.

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

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

5 "(2) Register persons who apply to the board who are
6 qualified to engage in the fitting and sale of hearing
7 instruments;

8 "(3) Administer, coordinate, and enforce this
9 chapter, evaluate the qualifications and supervise the
10 examinations of applicants for licensure under this chapter,
11 issue and renew licenses and permits under this chapter, and
12 investigate allegations of violations of this chapter;

13 "(4) Promulgate rules and regulations necessary to
14 carry out the provisions of this chapter and to establish
15 consumer protection provisions, provisions for prohibited
16 practices, and requirements for businesses;

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

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

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

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

27 "§34-14-30.

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

3 "(b) Members of the board shall be citizens and
4 residents of the state and appointed by the Governor. The
5 membership of the commission shall be inclusive and reflect
6 the racial, gender, geographic, urban/rural, and economic
7 diversity of the state. The board shall consist of eight
8 members as follows: Five licensees, one of whom may be a
9 ~~fitter~~ hearing aid specialist, one physician who specializes
10 in diseases of the ear, one audiologist, and one consumer
11 member. The consumer member shall have the same powers as
12 other board members, except that the consumer member shall
13 have no voting powers in matters of issuing, suspending, or
14 revoking licenses, and neither the consumer member, nor his or
15 her spouse, shall be a hearing ~~instrument fitter~~ aid
16 specialist or dispenser. Each hearing ~~instrument fitter~~ aid
17 specialist or dispenser on the board shall have no less than
18 three years of experience and shall hold a valid license as a
19 hearing ~~instrument fitter~~ aid specialist or dispenser, as
20 provided under this chapter. No member of the board shall be
21 from the same business or firm of another board member, and no
22 member shall be the spouse or immediate family member of
23 another board member.

24 "(c) All members of the board shall be appointed by
25 the Governor from a list of qualified persons nominated by the
26 Alabama Society for Hearing Healthcare Providers. The term of
27 office of each member shall be for four years. Before a

1 member's term expires, the Governor shall appoint a successor
2 to assume his or her duties upon the expiration of his or her
3 predecessor's term. A vacancy in the office of a member shall
4 be filled by appointment for the unexpired term. The members
5 of the board shall annually designate one member to serve as
6 chair, another to serve as vice chair, and such other officers
7 the board deems necessary, including a complaints chair. ~~All~~
8 ~~board members serving on June 1, 1994, shall retain their~~
9 ~~membership on the board.~~

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

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

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

27 "§34-14-32.

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

5 "§34-14-33.

6 "(a) ~~On or before the tenth day of each month~~ Within
7 a week of receiving funds, the board shall pay into the State
8 Treasury all moneys received by it under this chapter during
9 the preceding calendar month. The State Treasury shall credit
10 the moneys to the Board of Hearing Instrument Dealers Account,
11 which account is hereby created.

12 "(b) The moneys in the ~~State Board of Health Hearing~~
13 ~~Aid Account shall, on June 1, 1994, be transferred to the~~
14 ~~account of the~~ Board of Hearing Instrument Dealers Account
15 shall remain, and the board may use funds in the account for
16 the purpose of paying the expenses of administering and
17 enforcing the provisions of this chapter."

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

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

25 (1) Initial application fee for an apprentice
26 permit, hearing instrument specialist license, and dispenser
27 license.

1 (2) License fee for a hearing instrument specialist
2 license and for a dispenser license.

3 (3) Renewal fee for the renewal of a hearing
4 instrument specialists license and the renewal of a dispensers
5 license.

6 (4) Permit fee for an apprentice permit.

7 (5) Renewal fee for an apprentice permit.

8 (6) Qualifying examination and retest examination
9 fees.

10 (7) Late filing fee for a business statement of
11 compliance.

12 (8) Late renewal fee.

13 (9) Reinstatement license fee.

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

15 (11) Replacement license, certificate, or permit
16 fee.

17 (12) Verification of license fee.

18 (13) Mailing list fee.

19 (14) Returned check fee.

20 (15) Special assessment fee

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

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