



Alabama Department of Examiners of Public Accounts

Sunset Report **Board of Hearing Instrument Dealers Montgomery, Alabama**

October 1, 2019 through September 30, 2023

AUDEMUS JURA NOSTRA DEFENDERE
ALABAMA STATE HOUSE

Rachel Laurie Riddle, Chief Examiner



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State of Alabama
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Examiners of Public Accounts

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August 21, 2024

Representative Margie Wilcox
Chairman, Sunset Committee
Alabama State House
Montgomery, Alabama 36130

Dear Representative Wilcox:

This report was prepared to provide information for use by the Sunset Committee in conducting its review and evaluation of the operations of the Board of Hearing Instrument Dealers in accordance with the *Code of Alabama 1975*, Section 41-20-9.

The report contains unaudited information obtained from the management, staff, and records of the Board of Hearing Instrument Dealers in addition to information obtained from other sources.

Please contact me if you have any questions concerning this report.

Sincerely,

Rachel Laurie Riddle
Chief Examiner

Examiner
Charles Bass

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PROFILE

Purpose/Authority

The Board of Hearing Instrument Dealers (the “Board”) was created in 1971 and operates under the *Code of Alabama 1975*, Sections 34-14-1 through 34-14-34 to license and monitor persons who are dispensers or fitters of hearing instruments.

<u>Characteristics</u>	
Members and Selection	The Board shall consist of eight members appointed by the Governor from a list of qualified persons nominated by the Alabama Society for Hearing Healthcare Providers. • Five licensees, one of whom may be a hearing aid specialist. • One physician who specializes in diseases of the ear. • One audiologist. • One consumer member. There are six members currently serving. The physician position is vacant. <i>Code of Alabama 1975</i>, Section 34-14-30
Term	Members serve four-year terms. No member who has served two or more full terms may be reappointed to the Board until at least one year after expiration of his or her most recent full term of office. <i>Code of Alabama 1975</i>, Section 34-14-30
Qualifications	• All members of the Board shall be citizens and residents of this state. • No member of the Board shall be from the same business or firm as another Board member. • No member shall be the spouse or immediate family member of another Board member. • The five licensees shall have no less than three years of experience and hold a valid license as a hearing aid specialist or hearing aid dispenser. • The physician member should specialize in diseases of the ear. • Neither the consumer member, nor his or her spouse, shall be a hearing aid specialist or hearing aid dispenser. <i>Code of Alabama 1975</i>, Section 34-14-30

Consumer Representation	One member required by statute. One consumer member currently serving. <i>Code of Alabama 1975</i> , Section 34-14-30
Racial Representation	No statutory requirement. One black member currently serving.
Geographical Representation	No statutory requirement.
Other Representation	The membership of the Board shall be inclusive and reflect the racial, gender, geographic, urban/rural, and economic diversity of the state. <i>Code of Alabama 1975</i> , Section 34-14-30
Compensation	Members of the Board shall receive for each day actually engaged in the duties of the office a per diem amount of \$25.00, not to exceed the sum of \$1,000.00 per year, and reimbursement for traveling expenses as provided in Article 2 of Chapter 7 of Title 36 of the <i>Code of Alabama 1975</i> . <i>Code of Alabama 1975</i> , Section 34-14-30
Attended Board Member Training	Four Board Members Four former Board Members Former Executive Secretary Executive Secretary
<u>Operations</u>	
Administrator	Sandra Bice is appointed by the Board as the Executive Secretary. Ms. Bice is a part-time, hourly employee paid at a rate of \$20.33 per hour. <i>Code of Alabama 1975</i> , Section 34-14-30
Location	400 South Union Street, Suite 235B Montgomery, AL 36104 Office Hours: 10:00 am – 3:00 pm Monday, Tuesday, and Thursday
Real Property	The Board does not own real property.
Employees	One part-time, hourly employee.
Legal Counsel	Chenelle Smith, Assistant Attorney General, an employee of the Attorney General's Office serves as legal counsel.

Subpoena Power	The Board may subpoena witness testimony and records for any official hearing or proceeding of the Board. <i>Code of Alabama 1975</i>, Section 34-14-11								
Internet Presence	http://www.alabamahidb.us The website explains the Board, lists the current board members, has a link to laws and rules, applications, testing and continuing education information, and a contact/comment tab. The website does not contain Board's meeting minutes, a list or search feature for licensees, or a public records page.								
<u>Financial</u>									
Source of Funds	License fees and penalties.								
State Treasury	Yes, Special Revenue Fund 0770. <i>Code of Alabama 1975</i>, Section 34-14-33								
Required Distributions	None.								
Unused Funds	The money in the Board of Hearing Instrument Dealers Account shall remain, and the board may use funds in the account for the purpose of paying the expenses of administering and enforcing the provisions of this chapter. <i>Code of Alabama 1975</i>, Section 34-14-33								
<u>Licensure</u>									
Licensees	As of February 5, 2024: <table border="1"> <tr> <td>Hearing Aid Dispensers</td><td>53</td></tr> <tr> <td>Hearing Aid Specialist</td><td>53</td></tr> <tr> <td>Total Licensees</td><td>106</td></tr> <tr> <td>Apprentices*</td><td>17</td></tr> </table> *Apprentices are not licensees since they are in training. Included for informational purposes. <i>Source:</i> Executive Secretary	Hearing Aid Dispensers	53	Hearing Aid Specialist	53	Total Licensees	106	Apprentices*	17
Hearing Aid Dispensers	53								
Hearing Aid Specialist	53								
Total Licensees	106								
Apprentices*	17								

Licensure Qualifications	An applicant may obtain a license if they possess the following qualifications: • Successfully passes a qualifying examination. • Is at least 19 years of age. • Is of good moral character. • Has an education equivalent to a four-year course in an accredited high school. • Is free of contagious or infectious diseases. • Is a citizen of the United States or, if not a citizen of the United States, a person who is legally present in the United States with appropriate documentation from the federal government. <i>Code of Alabama 1975</i>, Section 34-14-4
Examinations	An applicant who fulfills the requirements regarding age, character, education, and health, and who shall provide proof of having met all state qualifying examination requirements and requirements of certification as a national board-certified hearing aid specialist shall be issued a dispenser's license. <i>Code of Alabama 1975</i>, Section 34-14-3(b) An applicant who meets the qualifications, who applies for license by examination shall appear at a time, place, and before such persons as the board may designate to be examined by means of written and practical tests in order to demonstrate that he or she is qualified to practice the fitting and sale of hearing instruments. <i>Code of Alabama 1975</i>, Section 34-14-4(b) The Board gives the State Practical and Rules & Laws examination three times a year, typically given in January, May, and September. The examination shall consist of written, practical, and state law tests as determined by the Board. Tests may be based on national examinations, be national examinations, or be designed and promulgated by the Board. Once passed, the Board will notify the candidate and International Hearing Society (IHS) that they have qualified to sit for the Alabama Written Exam with is administered by an IHS approved computer testing site. The Board uses the written examination International Licensing Examination for Hearing Healthcare Professionals (ILE) administered by the International Hearing Society. <i>Code of Alabama 1975</i>, Section 34-14-4(c) and <i>Administrative Rule</i> 445-X-1-.04(5)

**Examinations
(continued)**

The written examination given by the International Licensing Examination for Hearing Healthcare Professionals (ILE) is a computer-based international licensing exam developed, administered, and graded by the International Hearing Society. The computer-based exam is given at the following locations:

The Exam Center in Millbrook, University of Alabama, Lawson State Community College, University of Alabama in Birmingham, E.H. Gentry Facility in Talladega, Southeast Community Training Center in Daleville, Tennessee Valley Training Center in Mobile, Tennessee Valley Training Center in Decatur, University of Alabama in Huntsville, and Athens State University Training Center.

**International Licensing Examination (ILE) Written
(Hearing Aid Specialists)**

Year	# Taken	# Passed	% Passed
2020*	12	5	42%
2021	35	6	17%
2022	53	14	26%
2023	37	8	22%

*Fewer exams taken due to COVID-19.

The Board shall prepare and administer the practical examination to each applicant at the time and place specified for the examination. The examination must be completed within the time allotted. The Board, excluding the consumer member, shall examine and grade practical examinations.

***Administrative Rule* 445-X-1-.04(6)**

The Board uses the International Hearing Society's practical examination for conducting the practical examination.

**Practical Examination
(Hearing Aid Specialists)**

Year	# Taken	# Passed	% Passed
2020*	11	9	82%
2021	14	14	100%
2022	17	17	100%
2023	17	15	88%

*Fewer exams taken due to COVID-19.

Examinations (continued)	In addition, Hearing Aid Specialists and Hearing Aid Dispensers must pass a state law exam developed, administered, and graded by the Board. State Law Examination (Hearing Aid Specialist and Hearing Aid Dispensers) <table><tr><th>Year</th><th># Taken</th><th># Passed</th><th>% Passed</th></tr><tr><td>2020*</td><td>10</td><td>10</td><td>100%</td></tr><tr><td>2021</td><td>13</td><td>13</td><td>100%</td></tr><tr><td>2022</td><td>17</td><td>17</td><td>100%</td></tr><tr><td>2023</td><td>17</td><td>16</td><td>94%</td></tr></table> *Fewer exams taken due to COVID-19. <i>Source:</i> Executive Secretary	Year	# Taken	# Passed	% Passed	2020*	10	10	100%	2021	13	13	100%	2022	17	17	100%	2023	17	16	94%
Year	# Taken	# Passed	% Passed																		
2020*	10	10	100%																		
2021	13	13	100%																		
2022	17	17	100%																		
2023	17	16	94%																		
Reciprocity	An applicant for licensure by reciprocity shall submit to the Board, in form and content satisfactory to the Board, written proof of all of the following: • The applicant is currently licensed as a hearing aid specialist, hearing aid dispenser, or hearing aid dealer under the laws of another state or the District of Columbia. • The requirements for the license are equivalent to or greater than those required in this state. • The licensee is in good standing and his or her license has not been suspended or revoked. • Verification of all licenses that have been issued are on file with the Board. • The state that issued the license has a current reciprocity agreement on file with the Board. <i>Code of Alabama 1975</i>, Section 34-14-3(c)																				

Renewals	Annually, on or before January 30. After expiration of a 30-day grace period, the Board may renew licenses upon payment of a reinstatement fee plus the regular renewal fee. Online renewals are not available. <i>Code of Alabama 1975</i>, Section 34-14-6(a) and <i>Administrative Rule</i> 445-X-1-.03(5) <i>Source:</i> Executive Secretary
Licensee Demographics	Data not collected by agency. <i>Source:</i> Executive Secretary
Continuing Education	Ten hours annually. <i>Code of Alabama 1975</i>, Section 34-14-6(c) <i>Administrative Rule</i> 445-X-1-.05

SIGNIFICANT ISSUES

Significant Issue 2024-001: The Board has not established administrative rules to improve response times and handling procedures nor has the Board established an agency public-records webpage as required by Governor Ivey's Executive Order 734 Promoting Transparency in State Government Through Enhanced Accessibility to Public Records.

Executive Order 734, effective January 26, 2023, states, "Within 90 days of the issuance of this order, each state executive-branch agency shall revise its public-records policies—including, if necessary, by giving notice of its intention to adopt or amend administrative rules—to improve public-records response times and handling procedures..."

Furthermore, *Executive Order 734* states, "Within 90 days of the issuance of this order, each state executive-branch agency shall establish an agency public-records webpage."

The *Implementation Guidance of Executive Order 734* sent out by the Governor's Office states, "Rule or policy changes to address response times and fees: Agencies must revise their policies - including, if necessary, by giving notice of their intention to adopt or amend administrative rules - by April 26, 2023. Public records website/coordinator: Agencies must designate a public-records coordinator and establish a public-records webpage by April 26, 2023."

Significant Issue 2024-002: The physician member position on the Board has been vacant since December 31, 2018.

The *Code of Alabama 1975*, Section 34-14-30 states, "(b) The board shall consist of eight members as follows: Five licensees, one of whom may be a hearing aid specialist, *one physician who specializes in diseases of the ear*, one audiologist, and one consumer member. (c) All members of the board shall be appointed by the Governor from a list of qualified persons nominated by the Alabama Society for Hearing Healthcare Providers. The term of office of each member shall be for four years. *Before a member's term expires, the Governor shall appoint a successor* to assume his or her duties upon the expiration of his or her predecessor's term. A vacancy in the office of a member shall be filled by appointment for the unexpired term."

Significant Issue 2024-003: Six of the sixteen (38%) scheduled Board meetings from January 2020 through January 2024 had to be rescheduled due to a lack of a quorum. In order to conduct a meeting, as defined in the Code of Alabama 1975, Section 36-25A-2(6), a quorum of members is required.

Significant Issue 2024-004: The Board did not notify the Secretary of State within 15 days of a vacancy occurring as a result of a Board member's resignation.

The *Code of Alabama 1975*, Section 36-14-17(d)(2) states, "The chair of an existing board shall give electronic notification to the Secretary of State of each vacancy occurring as a result of a newly created board position and of every other vacancy occurring for any reason other than the expiration of a term as soon as possible and in any case within 15 days after the occurrence of the vacancy."

SIGNIFICANT ISSUES FROM QUESTIONNAIRES

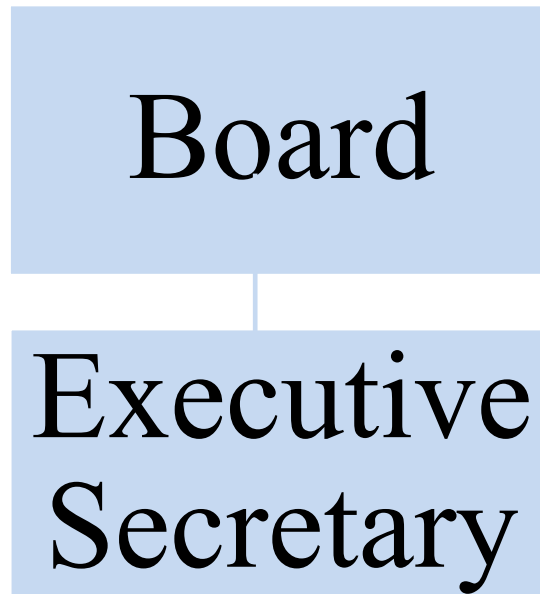
Significant Issue 2024-005: Three of the four complainants (75%) who responded to our survey indicated the Board did not communicate the results of their complaint to them. Testing of a sample of complaint files did not reveal any issues with Board communicating results of complaints to the complainants.

Significant Issue 2024-006: Of the thirty-four licensees responding to the question, “What do you consider the most significant issue facing your profession in Alabama,” ten (29%) stated over the counter hearing aids and nine stated insurance companies/reimbursements.

STATUS OF PRIOR FINDINGS/SIGNIFICANT ISSUES

All prior findings/significant issues have been resolved.

ORGANIZATION



PERSONNEL

Employees

The Board employs one part-time white female as the Executive Secretary. The employee is a retired state employee paid at a rate of \$20.33 per hour.

Legal Counsel

Assistant Attorney General Chenelle Smith, an employee of the Attorney General's Office, currently serves as the Board's legal counsel.

PERFORMANCE CHARACTERISTICS

Number of Licensees for the Past Four Fiscal Years

Type of Licenses	Fiscal Year			
	2020	2021	2022	2023
Dispensers	62	64	66	62
Specialists	61	68	68	60
Total	123	132	134	122

Operating Disbursements per Licensee (FY 2023) - \$327.03

Fines/Penalties as a Percentage of Operating Receipts – The Board has not levied any fines or penalties since the last sunset.

Notification of Board Decisions to Amend Administrative Rules

The Board complied with notification procedures prescribed in the Administrative Procedure Act, which includes publication of proposed rules in the Administrative Monthly, and public hearings on proposed rules. Licensees are not specifically notified of proposed changes. Notice is posted on the Board's website.

COMPLAINT HANDLING

The Board's complaint process is described in the *Code of Alabama 1975*, Section 34-14-9 as well as in its *Administrative Rule* 455-X-1-.08. In addition to having the authority to investigate complaints against licensees, the *Code of Alabama 1975*, Section 34-14-9(d) authorizes the Board to bring an action to enjoin any person, firm, or corporation who, without being licensed or issued a permit by the Board, dispenses hearing instruments in this state.

Initial Contact/Documentation	Any person wishing to make a complaint against a licensee or apprentice shall reduce the same to writing and file his or her complaint with the Board within one year from the date of the action upon which the complaint is based. All complaints must be in writing and cannot be faxed or emailed as original signature is required. Complaint forms can be found on the Board's website. Complainants are notified by mail when the complaint is received.
Anonymous Complaints Accepted	No anonymous complaints will be considered.
Investigative Process / Probable Cause Determination	The Board shall investigate alleged unethical and prohibited conduct; fraudulent, deceptive, and misleading activities; and any irregularities violating any portion of the <i>Code of Alabama 1975</i>, Section 34-14-1, et seq. or the rules promulgated by the Board. If the Board shall have cause to believe that a violation occurred, or may have occurred, then the Board may give notice to such persons, or arrange a conference with such persons, for the purpose of ascertaining the facts, and to arrive at a means for resolving the violation or potential violation.
Negotiated Settlements	Yes.
Notification of Resolution to the Complainant	Complaints are notified by mail of the resolution of the complaint.

Code of Alabama 1975, Section 34-14-9

Administrative Rule 445-X-1-.08

Source: Executive Secretary

Complaint Data

Schedule of Complaints Resolved Fiscal Year 2020 through 2023				
Year/Number of Complaints Received	Year/Number Resolved			
	FY 2020	FY 2021	FY 2022	FY 2023
2020 / 0				
2021 / 3		2	1	
2022 / 0				
2023 /1				1

Average Time to Resolve Complaints - 39 business days.

Disposition of Resolved Complaints

Number of Complaints	Resolution
1	No Jurisdiction
2	No Probable Cause
1	Consent Order

REGULATION IN CONJUNCTION WITH OTHER ENTITIES

According to the *Code of Alabama 1975*, Section 34-14-2(d), nothing in the Board of Hearing Instrument Dealers statutes shall apply to speech pathologists or to audiologists licensed in this state. Audiologists and Speech Pathologists are licensed and regulated by the Alabama Board of Speech-Language Pathology and Audiology.

FINANCIAL INFORMATION

Source of Funds

Application fees, licensure fees, penalties, and fines are deposited into the Board of Hearing Instrument Dealers Special Revenue Fund maintained in the State Treasury.

Schedule of Fees

The *Code of Alabama 1975*, Section 34-14-9(c) authorizes the Board to collect administrative fines not to exceed \$1,000.00 per violation.

The *Code of Alabama 1975*, Section 34-14-34 allows the Board to impose fees of not less than \$25.00 and not more than \$1,000.000, to be established by Administrative Rule.

The Board's fees are set in *Administrative Rule* 445-X-1-.03(7).

Fee Type/Purpose	Amount Collected
Initial Application Fee	\$250.00
Hearing Aid Specialist License Fee	\$200.00
Hearing Aid Dispenser License Fee	\$250.00
Hearing Aid Specialist Renewal Fee	\$200.00
Hearing Aid Dispenser Renewal Fee	\$250.00
Apprentice Permit Fee	\$125.00
Apprentice Renewal Fee	\$125.00
Examination Fee	\$200.00
Late Filing – Business Statement of Compliance	\$25.00
Late Renewal Fee (February 1 – March 1)	\$50.00
Reinstatement Fee (after March 1, up to 2 years)	\$200.00
Duplicate License, Certificate, or Permit Fee	\$25.00
Replacement License, Certificate, or Permit Fee	\$25.00
Verification of License	\$25.00
Mailing List Fee	\$25.00
Administrative Fine	≤ \$1,000.00 per violation

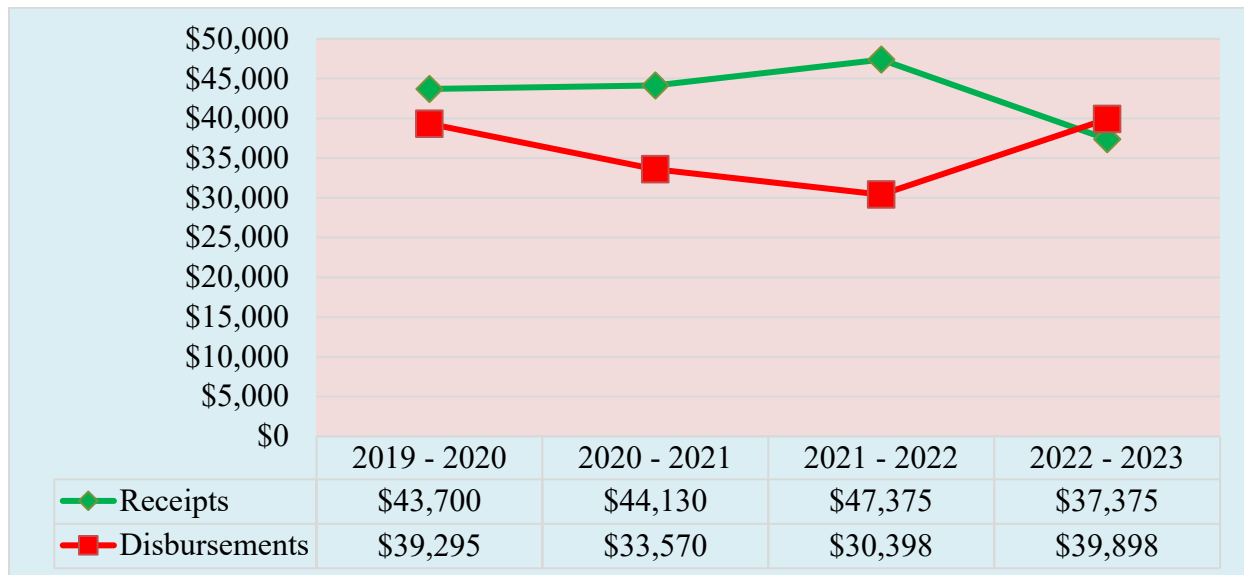
Schedule of Receipts, Disbursements and Balances

October 1, 2019 through September 30, 2023

	2019-2020	2020-2021	2021-2022	2022-2023
<u>Receipts</u>				
License Fees	\$ 43,700.00	\$ 44,130.00	\$ 43,475.00	\$ 33,650.00
Miscellaneous Fees*			3,900.00	3,725.00
Total	43,700.00	44,130.00	47,375.00	37,375.00
<u>Disbursements</u>				
Personnel Costs	22,860.00	18,854.20	19,537.08	20,297.37
Employee Benefits	1,748.79	1,442.35	1,494.58	1,552.75
Repairs & Maintenance	105.00	210.00		
Rentals & Leases	8,755.92	8,755.92	5,107.62	12,416.24
Utilities & Communications	171.62	971.02	1,434.97	2,036.95
Professional Services	3,976.05	1,721.11	1,622.65	1,903.29
Supplies, Materials, & Operating Expenses	1,677.21	1,615.64	1,201.00	1,691.04
Total	39,294.59	33,570.24	30,397.90	39,897.64
Excess (Deficiency) of Receipts over Disbursements	4,405.41	10,559.76	16,977.10	(2,522.64)
Cash Balance at Beginning of Year	50,508.46	54,913.87	65,473.63	82,450.73
Cash Balance at End of Year	54,913.87	65,473.63	82,450.73	79,928.09
Reserved for Year-End Obligations	(360.00)	(587.14)	(5,131.63)	(1,550.00)
Unobligated Cash Balance at End of Year	\$ 54,553.87	\$ 64,886.49	\$ 77,319.10	\$ 78,378.09

* Includes replacement license, mail list, license verification, and duplicate license fees.

Operating Receipts vs. Operating Disbursements

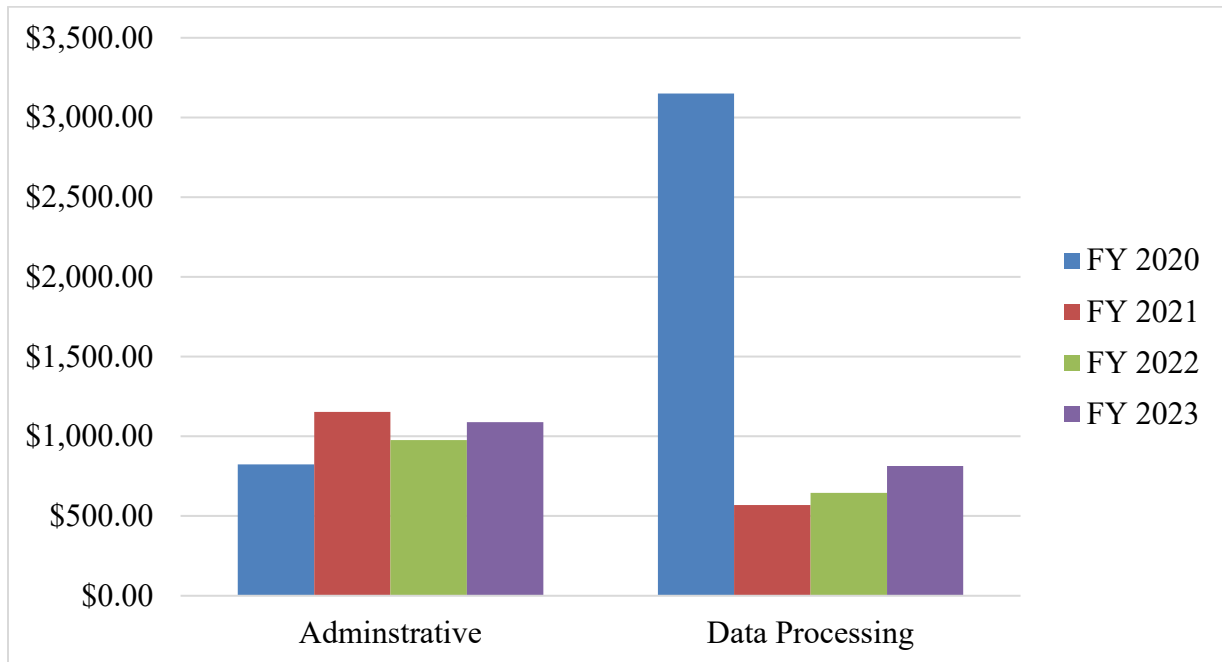


Summary Schedule of Professional Services Disbursements*

As of September 30 th				
Type of Service	FY 2020	FY 2021	FY 2022	FY 2023
Administrative	\$ 825.00	\$ 1,152.79	\$ 976.23	\$ 1,089.29
Data Processing	3,151.05	568.32	646.42	814.00
Total	\$ 3,976.05	\$ 1,721.11	\$ 1,622.65	\$ 1,903.29

*Detailed information presented in Appendix II of this report.

Professional Services Disbursements



QUESTIONNAIRES

Board Member Questionnaire

A letter was sent to all members of the Board of Hearing Instrument Dealers requesting participation in our survey. Four participated in our survey. The percentages are based on the number who responded to the question.

1. What do you consider the most significant issue(s) facing the Alabama Board of Hearing Instrument Dealers and how is the Board addressing these issues?

Board Member #1 – “I have heard comments that the number of applicants coming in is less than the people retiring. This may be here say but if it is fact that is concerning.”

Board Member #2 – “3rd party insurance benefits, keeping employees”

Board Member #3 – “Nothing at this time.”

Board Member #4 – “Delineating requirements and standards for the hearing aide business within the state. A fair and equitable deal to the consumer. Measurable metrics should apply.”

2. What, if any, changes to the Board’s laws are needed?

Board Member #1 – “Possibly adding a 4th exam offering from 3.”

Board Member #2 – “none at present”

Board Member #3 – “Nothing at this time.”

Board Member #4 – “Need more time and data to answer that one.”

3. Do you think the Board is adequately funded?

Yes	2	50%
Unknown	2	50%

4. Do you think the Board is adequately staffed?

Yes	3	75%
Unknown	1	25%

5. Does the Board receive regular reports on the operations from the Executive Secretary?

Yes	2	50%
Unknown	2	50%

6. Has the Board experienced any significant change to its operations?

No	2	50%
Unknown	2	50%

7. Does the Board plan any significant changes in its operations?

No	2	50%
Unknown	2	50%

8. Do you have any additional comments you would like to make?

Board Member #1 – “I have been in this business as a franchisee and dispenser in Florida and Alabama for almost 20 years. However, I am brand new to serving on the board. This will be my first meeting. The reason for all of the unknowns.”

Board Member #2 – “I feel the board does a very good job.”

Board Member #3 – “Not at this time”

Board Member #4 – “New kid on the block. I need time to assess our performance past/present and future. I am hopeful, based on my one meeting of the board. Looking forward to making buying/selling hearing aides a fair and just proposition in AL.”

Licensee Questionnaire

A letter was sent to one hundred licensees requesting participation in our survey. Thirty-four participated in the survey. The percentages are based on the number who responded to the question.

1. What do you consider the most significant issue(s) facing your profession in Alabama?

Respondent #1 – “competing with lower quality product class entering the market”

Respondent #2 – “No reciprocity with bordering states.”

Respondent #3 – “Managed Care and over the counter”

Respondent #4 – “Lack of enforcement of misleading/incorrect advertising and representation of OTC hearing aids.”

Respondent #5 – “Lack of young people entering the profession.”

Respondent #6 – “Lack of specialists”

Respondent #7 – “Over the counter Hearing Aids”

Respondent #8 – “Insurance companies making it more difficult for coverage.”

Respondent #9 – “Being newly licensed, I'm not sure I can answer this yet.”

Respondent #10 – “over the counter hearing aids”

Respondent #11 – “Insurance companies undermining our services.”

Respondent #12 – “The need to and the randomness of collection of sales tax on the sale of product. Alabama is one of a handful of states that collects sales tax on the sale of hearing aids. Most, if not all, border states exempt sales tax from the sale of hearing aids.”

Respondent #13 – “Third party insurance”

Respondent #14 – “insurance companies ability to find and keep employees”

Respondent #15 – “3rd Party Managed Care and to a lesser degree OTC Hearing Aids”

Respondent #16 – “Over the counter products”

Respondent #17 – “Over the counter Aids”

Respondent #18 – “OTC hearing devices”

Respondent #19 – “Insurance reimbursement and access to under served communities”

Respondent #20 – “The hearing aids being taxed. Many people will drive to Florida to avoid the state tax.”

Respondent #21 – “Insurance Third Party and OTC”

Respondent #22 – “The only thing I would like to see change is the State offering CEUs. The Association is great but I feel the Board should find a way to make it more accessible and cheaper than the association. Weather it be online seminars or something that can be done at the board office. I think it would be good to look into.”

Respondent #23 – “Insurance companies dictating where and how patients treat their hearing loss, misleading information about hearing aids at low prices that are not hearing aids at all....just amplifiers. Misleading the public that they can just go online get a "hearing aid", dispense and fit themselves. Patients have not the first clue how to do any of these things, yet they are bombarded by social media, ads and the like to make it seem like our profession is not needed at all. I believe this is sending a message to the public that we are some type of middle-man that can be cut out. I think we need to get a bunch of amplifiers and dump them off at Congress. Let's see how well they can figure out which aid, which dome and settings will work best for their hearing loss. Just for kicks and giggles throw in cerumen management!! They will not be able to look in their own ear canals much less manage it. Yet, day after day, I run into such a patient. Someone who purchased hearing aids online and they absolutely hated them. They cannot wear them! Thankfully, during such interactions, I can show the patient how an H.I.S can make all the difference in the world for their hearing health. I always wonder how many never grace our doorsteps? How many people just decide what's the use? Hearing aids don't work! They aren't about to spend more money just to come see a middle man and get the same results. I think it's the perception that we are not needed that is our biggest issue! We need to focus our efforts to educating the public they have a much better option! The option is a visit to a hearing care professional.”

Respondent #24 – “buying groups not having to pay taxes and insurance controlling what people get”

Respondent #25 – “Third party benefits, insurances saturating our patient data base”

Respondent #26 – “False players entering the "hearing aid" arena with the intent to misrepresent and mislead the hard-of-hearing public, specifically the elderly.”

Respondent #27 – “I am new to this, so I'm unsure.”

Respondent #28 – “There is a major shortage of providers/hearing instrument specialist in Alabama.”

Respondent #29 – “unscrupulous dispensers”

Respondent #30 – “Providing our Patients Hearing Healthcare with Integrity and Honesty.”

Respondent #31 – “Ethics”

Respondent #32 – “OTC hearing aids, tax on hearing aids.”

Respondent #33 – “The low number of license holders in part due to the difficulty in getting a dispensers license in this state compared to other states. Alabama is one of the few states that makes people hold a specialist license before they can get their dispensers license and the fees for holding a license are higher.”

Respondent #34 – “Dispensers that care about the patient”

2. Do you think regulation of your profession by the Alabama Board of Hearing Instrument Dealers is necessary to protect the public welfare?

Yes	34	100%
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3. Do you think any of the Board’s laws, rules, or policies are an unnecessary restriction on the practice of your profession?

Yes	6	18%
No	25	74%
Unknown	3	8%

4. Are you adequately informed by the Board of changes to and interpretations of the Board's positions, policies, rules, and laws?

Yes	28	82%
No	4	12%
Unknown	2	6%

5. Do you consider mandatory continuing education necessary for the competent practice of your profession?

Yes	31	91%
No	3	9%

6. Does the Board respond to your inquiries in a timely manner?

Yes	30	88%
Unknown	4	12%

7. Has the Board performed your licensing and renewal in a timely manner?

Yes	34	100%
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8. Do you have any additional comments you would like to make?

Respondent #1 – “No.”

Respondent #2 – “I al think CEU's should be offered online, including the mandatory ones.”

Respondent #3 – “Would like to see more clarification on advertising for Over the Counter devices”

Respondent #4 – “They have been doing an impressive job. The Board is well ran and highly organized. I've been very happy with the level of professionalism and efficiency.”

Respondent #5 – “No”

Respondent #6 – “Nope”

Respondent #7 – “no”

Respondent #8 – “No”

Respondent #9 – “No”

Respondent #10 – “no”

Respondent #11 – “No”

Respondent #12 – “The collection of sales tax is a state requirement. Some entities are exempting some or all of the purchase from sales tax b/c the corporate office is in a sales tax free state or their is an insurance component. As business owners who deal with multiple purchase channels, we need clarity as to when it is appropriate to collect or exempt from collection sales tax.”

Respondent #13 – “All third party sales should have to pay sales tax.”

Respondent #14 – “I feel as if things are going smoothly”

Respondent #15 – “While I think the Board is great for HIS, I do think its terribly unfair that HIS are held to one standard while just anyone is allowed to sell OTC with no licensing at all. It should be that anyone selling Hearing Aids is held to the exact same standard.”

Respondent #16 – “None”

Respondent #17 – “NO”

Respondent #18 – “n/a”

Respondent #19 – “The board is very import to protect the consumer and the professionals”

Respondent #20 – “No, I don't have any additional comments.”

Respondent #21 – “No”

Respondent #22 – “The board has been nothing but easy to deal with. The women who handles everything is amazing and I am proud to work in the state of Alabama.”

Respondent #23 – “No”

Respondent #24 – “no”

Respondent #25 – “No”

Respondent #26 – “I have been licensed to dispense hearing aids for over 25 years across three states. The Alabama board has been the most proactive and responsive of all. They do an excellent job.”

Respondent #27 – “I have only had positive interactions with the Board. They have been very helpful and encouraging.”

Respondent #28 – “The licensure process in Alabama is one of the most difficult. There aren't enough NBC/ dispensers to go around to train up and coming HIS persons. If the rule was changed so that a AL licensed HIS could train new apprentices, this would help a lot with the shortage. As of now, a NBC sponsor can only sign to sponsor 4 people, makin git difficult to onboard new people into our industry. The need for an HIS Licensed person in Alabama to get their licensed signed off on by a "sponsor" is also an unnecessary step. Once an Alabama lic is obtained and CEU's are met, there is no reason to have to get a sponsor for renewal.”

Respondent #29 – “I am in favor of having a regulatory board for this profession.”

Respondent #30 – “The Board together with other State agencies like the Attorney Generals office helps us as Hearing Healthcare Providers to work with checks and balances.”

Respondent #31 – “Not at this time.”

Respondent #32 – “no additional comments”

Respondent #33 – “No.”

Respondent #34 – “Sandra does a great job communication and running the board. I have a license in Florida and they could take lessons from her.”

Complainant Questionnaire

A letter was sent to four complainants requesting participation in our survey. Four participated in the survey. The percentages are based on the number who responded to the question.

1. Was receipt of your complaint acknowledged by the Board?

Yes	4	100%
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2. Approximately how long after filing your complaint did the Board contact you?

Within 15 days	2	50%
Within 30 days	2	50%

3. Did the Board communicate the results of its investigation into your complaint to you?

Yes	1	25%
No	3	75%

4. Do you think the Board did everything it could to resolve your complaint?

No	2	50%
Unknown	2	50%

5. Do you have any additional comments you would like to make?

Respondent #1 – “a hearing aid dealer was arrested for 18 counts of insurance fraud, the board allowed the business to remain open even though the owner was in the federal prison, he now has no license state or national, and is out of prison and back running his business. His whole business was aware of the fraud being committed and they still work there. They just made his wife the owner of a corporation and one of the people who was involved in the fraud now is board certified and the business is operating thru his license. when I inquired with one of the board members why this is being allowed, he said the state's attorney for the board is the person who allowed it to remain open. When you have a group of people committing a crime, the crime is found out and investigated by the FBI, the owner takes the fall for the crime and goes to prison. the business being allowed to remain open is a crime to the public, and a slap in the face of every hearing center that abides by the law. This should be corrected asap.”

Respondent #2 – “Because the party subject to investigation agreed to refund the amounts paid, we voluntarily withdrew our complaint.”

Respondent #3 – “The Board had their rules, which did not help me. However, I was able to resolve my issue with the hearing aid dispenser through my bank.”

Respondent #4 – “The current board allowed a hearing specialist who thru an FBI investigation was found to be committing insurance fraud and was convicted to 18 months in a federal prison to remain in business. even though he had his licenses stripped from him, he was allowed to put the business in his wife's name, and employee get board certified, and the same employees that also were involved in the insurance fraud to remain in business. The board members when questioned claimed that the state attorney for the board was the cause of the business being allowed to remain open. All involved should be replace, fired, etc. We all should have to obey the same laws in this state.”

APPENDICES

Appendix I: Applicable Statutes

Section 34-14-1 Definitions.

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

- (1) APPRENTICE. A person who has met the requirements of Section 34-14-7 and may engage in the practice of fitting and dealing in hearing instruments only under the direct supervision of a hearing aid dispenser or hearing aid specialist when designated by the sponsoring dispenser.
- (2) APPRENTICE PERMIT. A permit issued while the applicant is in training to become a licensed hearing aid specialist.
- (3) BOARD. The Board of Hearing Instrument Dealers.
- (4) DIRECT SUPERVISION. On site and close contact whereby a supervisor is able to respond quickly to the needs of the patient or client receiving care or the supervisee.
- (5) HEARING AID DISPENSER. Any trained person who has met all requirements of this chapter for licensure and who may engage in the practice of fitting and dealing in hearing instruments without the direct supervision of any person.
- (6) HEARING AID or HEARING INSTRUMENT. Any wearable instrument or device designed for or offered for the purpose of aiding or compensating for impaired human hearing.
- (7) HEARING AID SPECIALIST. A trained, licensed person who may engage in the practice of fitting and dealing in hearing instruments under the indirect supervision of a hearing aid dispenser.
- (8) INDIRECT SUPERVISION. Frequent and close contact whereby a supervisor is able to respond quickly to the needs of the patient or client receiving care or the supervisee.
- (9) LICENSE. A license issued by the board under this chapter to a hearing aid specialist or hearing aid dispenser.
- (10) PRACTICE OF FITTING AND DEALING IN HEARING INSTRUMENTS. The measurement of human hearing by means of an audiometer or by other means approved by the board solely for the purpose of making selections, adaptations, or sale of hearing instruments. The term also includes the making of impressions for earmolds. A licensee or permit holder, at the request of a physician or a member of related professions, may make audiograms for the professional's use in consultation with the hard-of-hearing.
- (11) SELL or SALE. Any transfer of title or of the right to use by lease, bailment, or any other contract, excluding wholesale transactions with distributors or dealers.
- (12) TELEPRACTICE. The practice as provided by rule of the board pursuant to subdivision (10). (*Acts 1971, No. 2425, p. 3858, §1; Acts 1991, No. 91-198, p. 365, §3; Acts 1994, No. 94-180, p. 224, §3; Act 2016-112, §1.*)

Section 34-14-2 Licenses or permits - Required; display; duplicates; corporations, partnerships, etc.

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

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

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

(d) Nothing in this chapter shall apply to speech pathologists or to audiologists licensed in this state. (*Acts 1971, No. 2425, p. 3858, §2; Acts 1989, No. 89-268, p. 408, §3; Acts 1991, No. 91-198, p. 365, §3; Acts 1994, No. 94-180, p. 224, §3; Act 2016-112, §1.*)

Section 34-14-3 Licenses - Issuance; reciprocity; complaints; fees.

(a) The board shall register each applicant without discrimination who pays an examination fee as prescribed by rule of the board and who satisfactorily passes an examination as provided in Section 34-14-4, and upon the applicant's payment of the application fee, shall issue to the applicant a license signed by the board. The license shall be effective until January 30 of the year following the year in which issued.

(b) An applicant who fulfills the requirements regarding age, character, education, and health, as set forth in subsection (a) of Section 34-14-4, and who shall provide proof of having met all state qualifying examination requirements and requirements of certification as a national board certified hearing aid specialist shall be issued a dispenser's license.

(c) An applicant for licensure by reciprocity shall submit to the board, in form and content satisfactory to the board, written proof of all of the following:

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

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

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

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

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

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

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

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

(Acts 1971, No. 2425, p. 3858, §6; Acts 1985, No. 85-337, §3; Acts 1991, No. 91-198, p. 365, §3; Acts 1994, No. 94-180, p. 224, §3; Act 2016-112, §1.)

Section 34-14-4 Licenses - Examination of applicants.

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

(1) Is at least 19 years of age;

(2) Is of good moral character;

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

(4) Is free of contagious or infectious disease; and

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

(b) An applicant who meets the qualifications of subsection (a) as determined by the board who applies for license by examination shall appear at a time, place, and before such persons as the board may designate to be examined by means of written and practical tests in order to demonstrate that he or she is qualified to practice the fitting and sale of hearing instruments.

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

(Acts 1971, No. 2425, p. 3858, §7; Acts 1989, No. 89-268, p. 408, §3; Acts 1991, No. 91-198, p. 365, §3; Acts 1994, No. 94-180, p. 224, §3; Act 2009-42, p. 142, §3; Act 2016-112, §1.)

Section 34-14-5 Licenses - Standards and scope of examination.

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

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

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

- a. An applicant who fails the written examination section shall retake the entire written examination section.
- b. An applicant who fails the Alabama law section shall retake the entire Alabama law section.
- c. An applicant who fails the practical examination section shall be retested in only those portions of the practical examination that he or she failed.
- d. An applicant who fails to successfully complete a retest pursuant to paragraphs a., b., or c., or any combination of these, may retake the entire three-section qualifying examination within one year from the initial test.

(b) The three-section qualifying examination may not include questions requiring a medical or surgical education. The purpose of the examination, at a minimum, is to provide the opportunity for a person with a high school level education, or its equivalent, with appropriate study through the apprentice training program and training and supervision under the direction of a licensed dispenser, to enter the profession.

(c) The practical examination section of the qualifying examination shall include all of the following areas:

- (1) Pretest procedure.
- (2) Pure tone air conduction and masking.
- (3) Pure tone bone conduction and masking.
- (4) Speech audiometry and masking.
- (5) Ear impressions.
- (6) Audiogram interpretation and fitting.
- (7) Troubleshooting hearing aids.

(Acts 1971, No. 2425, p. 3858, §9; Acts 1989, No. 89-268, p. 408, §3; Acts 1994, No. 94-180, p. 224, §3; Act 2016-112, §1.)

Section 34-14-6 Licenses - Renewal; fees; continuing education.

(a) Each person who engages in the fitting and sale of hearing instruments shall annually, on or before January 30, pay to the board a fee as prescribed by rule of the board for renewal of his or her license and shall keep such certificate conspicuously posted in his or her office or place of business at all times. Where more than one office is operated by the licensee, duplicate certificates shall be issued by the board for posting in each location upon payment of the fee prescribed by rule of the board. A license may be reinstated and renewed within two years. The board may renew such expired certificates upon payment of a reinstatement fee as prescribed by the board, in addition to the license renewal fee, to the board. No person who applies for renewal, whose license has expired, shall be required to submit to any examination as a condition to renewal; provided, that such renewal application is made within two years from the date of such expiration.

(b) All fees collected by the board shall be set by rule of the board. For calendar year 2016, no single fee shall exceed two hundred fifty dollars (\$250). For any calendar year thereafter, no single fee may be increased by more than 20 percent per year.

(c) The board shall maintain a program of continuing education for its licensees. No licensee shall have his or her active license renewed unless, in addition to any other requirements of this chapter, the minimum continuing annual education requirements are met.

(Acts 1971, No. 2425, p. 3858, §11; Acts 1985, No. 85-337, p. 274, §3; Acts 1989, No. 89-268, p. 408, §3; Acts 1991, No. 91-198, p. 365, §3; Acts 1994, No. 94-180, p. 224, §3; Act 2016-112, §1.)

Section 34-14-7 Apprentice permit; hearing aid specialist license; supervision and training.

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

(b) Upon receiving an application as provided under this section and accompanied by the required fees, the board shall issue an apprentice permit which shall entitle the applicant to engage in the fitting and sale of hearing instruments for a period of one year under the direct supervision of a person holding a valid Alabama dispenser license or hearing aid specialist license, when designated by the sponsor, provided the apprentice has successfully completed the International Institute for Hearing Instrument Studies distance learning program. A sponsoring dispenser is responsible for the actions and training of the apprentice. An apprentice permit may be renewed for an additional year, upon terms and conditions established by the board. An applicant may not be issued a second permit within a five-year period following the expiration date of the initial permit.

(c) An apprentice or applicant who successfully completes the hearing aid specialist examination may obtain a hearing aid specialist license upon application to the board, and payment of the required fees, which shall entitle the applicant to engage in the sale or fitting of hearing instruments until January 30th of the following year under the direct supervision of a person holding a current Alabama hearing aid dispenser's license. The licensed dispenser shall be totally responsible for the supervision of all activities of the hearing aid specialist pertaining to the sale and fitting of hearing instruments.

(d) The dispenser who is responsible for the supervision and training of an apprentice shall not have more than four apprentices under his or her supervision at any time. There shall be no limitations on the number of hearing aid specialists a dispenser may have under his or her supervision at any given time.

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

(Acts 1971, No. 2425, p. 3858, §8; Acts 1982, No. 82-146, p. 173, §4; Acts 1985, No. 85-337, p. 274, §3; Acts 1989, No. 89-268, p. 408, §3; Acts 1991, No. 91-198, p. 365, §3; Acts 1994, No. 94-180, p. 224, §3; Act 2001-250, p. 301, §3; Act 2016-112, §1.)

Section 34-14-8 Business addresses; notices; replacement certificates.

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

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

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

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

(Acts 1971, No. 2425, p. 3858, §10; Acts 1991, No. 91-198, p. 365, §3; Acts 1994, No. 94-180, p. 224, §3; Act 2016-112, §1.)

Section 34-14-9 Complaint and hearing; appeal; disciplinary actions.

(a) Any person wishing to make a complaint against a licensee or apprentice under this chapter shall reduce the same to writing and file his or her complaint with the board within one year from the date of the action upon which the complaint is based. If the board investigates and determines the charges made in the complaint are sufficient to warrant a hearing to determine whether the license issued under this chapter shall be suspended or revoked, it shall make an order fixing a time and place for a hearing and require the licensee complained against to appear and defend against the complaint. The order shall have annexed thereto a copy of the complaint. The order and copy of the complaint shall be served upon the licensee at least 20 days before the date set for hearing, either personally or by registered or certified mail sent to the licensee's last known address. Continuances or adjournment of hearing date shall be made if for good cause. At the hearing the licensee complained against may be represented by counsel. The licensee complained against and the board may take depositions in advance of hearing and after service of the complaint, and either may compel the attendance of witnesses by subpoenas issued by the board under its seal. Either party taking depositions shall give at least five days' written notice to the other party of the time and place of such depositions, and the other party may attend, with counsel if desired, and cross-examine. Appeals from suspension or revocation may be made to the circuit court. In the event of an appeal, there shall be a trial de novo and the trial shall be before the court without the intervention of a jury.

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

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

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

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

(3) Unethical conduct, including:

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

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

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

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

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

f. Habitual intemperance.

g. Gross immorality.

h. Permitting another's use of a license.

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

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

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

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

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

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

(8) Violating any provision of this chapter.

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

(Acts 1971, No. 2425, p. 3858, §12; Acts 1989, No. 89-268, p. 408, §3; Acts 1991, No. 91-198, p. 365, §3; Acts 1994, No. 94-180, p. 224, §3; Act 2009-42, p. 142, §3; Act 2016-112, §1.)

Section 34-14-10 Receipt to be Furnished to Person Supplied With Hearing Instrument; Persons Under Age 18 to be First Examined By Physician.

(a) Any person who practices the fitting and sale of hearing instruments shall deliver to each person supplied with a hearing instrument a receipt which shall contain the licensee's or apprentice's signature and show his or her business street address and the number of his or her license or permit, together with specifications as to the make and model of the hearing instrument furnished and the full terms of sale clearly stated. If an instrument which is not new is sold, the receipt and the container thereof shall be clearly marked as "used" or "reconditioned," whichever is applicable, with terms of guarantee, if any.

(b) Such receipt shall bear in no smaller type than the smallest used in the body copy portion the following:

"The purchaser has been advised at the outset of his or her relationship with the hearing instrument apprentice, fitter, or dispenser that any examination(s) or representation(s) made by a licensed hearing instrument apprentice, fitter, or dispenser in connection with the fitting and selling of this hearing instrument(s) is not an examination, diagnosis, or prescription by a person licensed to practice medicine in this state and, therefore, must not be regarded as medical opinion or advice."

(c) Any person engaging in the fitting and sale of hearing instruments shall ascertain whether a person under the age of 18 has been examined by a physician for his or her recommendation to be fitted with a hearing instrument within six months prior to the fitting. If such not be the case, no hearing instrument shall be sold to such person until such an examination is made.

(Acts 1971, No. 2425, p. 3858, §3; Acts 1989, No. 89-268, p. 408, §3; Acts 1991, No. 91-198, p. 365, §3; Acts 1994, No. 94-180, p. 224, §3.)

Section 34-14-11 Powers and duties of board.

(a) The board shall perform the following duties:

- (1) Authorize all disbursements necessary to carry out the provisions of this chapter;
- (2) Register persons who apply to the board who are qualified to engage in the fitting and sale of hearing instruments;
- (3) Administer, coordinate, and enforce this chapter, evaluate the qualifications and supervise the examinations of applicants for licensure under this chapter, issue and renew licenses and permits under this chapter, and investigate allegations of violations of this chapter;
- (4) Promulgate rules and regulations necessary to carry out the provisions of this chapter and to establish consumer protection provisions, provisions for prohibited practices, and requirements for businesses;
- (5) Issue and renew a dispenser's license to sell and fit hearing instruments to any person who is duly licensed under the laws of this state as an audiologist; and
- (6) Furnish a list of persons licensed under this chapter, upon request and payment of the required fee.

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

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

(Acts 1971, No. 2425, p. 3858, §14; Acts 1982, No. 82-146, p. 173, §4; Acts 1989, No. 89-268, p. 408, §3; Acts 1991, No. 91-198, p. 365, §3; Acts 1994, No. 94-180, p. 224, §3; Act 2016-112, §1.)

Section 34-14-12 Prohibited acts and practices.

No person shall:

- (1) Sell, barter, or offer to sell or barter a license or permit;
- (2) Purchase or procure by barter a license or permit;
- (3) Alter a license or permit;
- (4) Use or attempt to use as valid a license or permit which has been fraudulently obtained, counterfeited, or materially altered; or
- (5) Willfully make a false statement in an application for license or apprentice permit or application for renewal of a license.

(Acts 1971, No. 2425, p. 3858, §13; Acts 1994, No. 94-180, p. 224, §3.)

Section 34-14-13 Chapter not applicable to certain persons and practices.

This chapter is not intended to prevent any person from engaging in the practice of measuring human hearing for the purpose of selection of hearing instruments; provided, that such person or organization employing such person does not sell hearing instruments or accessories thereto.

(Acts 1971, No. 2425, p. 3858, §4; Acts 1994, No. 94-180, p. 224, §3.)

Section 34-14-14 Penalties.

A violation of this chapter shall be punishable as a Class C misdemeanor.

(Acts 1971, No. 2425, p. 3858, §19; Acts 1994, No. 94-180, p. 224, §3.)

Article 2 Board of Hearing Instrument Dealers.

Section 34-14-30 Creation; composition; compensation.

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

(b) Members of the board shall be citizens and residents of the state and appointed by the Governor. The membership of the board shall be inclusive and reflect the racial, gender, geographic, urban/rural, and economic diversity of the state. The board shall consist of eight members as follows: Five licensees, one of whom may be a hearing aid specialist, one physician who specializes in diseases of the ear, one audiologist, and one consumer member. The consumer member shall have the same powers as other board members, except that the consumer member shall have no voting powers in matters of issuing, suspending, or revoking licenses, and neither the consumer member, nor his or her spouse, shall be a hearing aid specialist or hearing aid dispenser. Each hearing aid specialist or hearing aid dispenser on the board shall have no less than three years of experience and shall hold a valid license as a hearing aid specialist or hearing aid dispenser, as provided under this chapter. No member of the board shall be from the same business or firm of another board member, and no member shall be the spouse or immediate family member of another board member.

(c) All members of the board shall be appointed by the Governor from a list of qualified persons nominated by the Alabama Society for Hearing Healthcare Providers. The term of office of each member shall be for four years. Before a member's term expires, the Governor shall appoint a successor to assume his or her duties upon the expiration of his or her predecessor's term. A vacancy in the office of a member shall be filled by appointment for the unexpired term. The members of the board shall annually designate one member to serve as chair, another to serve as vice chair, and such other officers the board deems necessary, including a complaints chair.

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

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

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

(Acts 1971, No. 2425, p. 3858, §15; Acts 1989, No. 89-268, p. 408, §3; Acts 1991, No. 91-198, p. 365, §3; Acts 1994, No. 94-180, p. 224, §3; Act 2005-66, p. 93, §3; Act 2009-42, p. 142, §3; Act 2016-112, §1.)

Section 34-14-31 Attorney General to act as legal adviser.

The Attorney General of the state shall act as legal adviser of the board and shall render such legal assistance as may be necessary in carrying out the provisions of this chapter.

(Acts 1971, No. 2425, p. 3858, §16; Acts 1989, No. 89-268, p. 408, §3; Acts 1994, No. 94-180, p. 224, §3.)

Section 34-14-32 Meetings.

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

(Acts 1971, No. 2425, p. 3858, §17; Act 2016-112, §1.)

Section 34-14-33 Disposition of funds.

(a) Within a week of receiving funds, the board shall pay into the State Treasury all moneys received by it under this chapter during the preceding calendar month. The State Treasury shall credit the moneys to the Board of Hearing Instrument Dealers Account, which account is hereby created.

(b) The moneys in the Board of Hearing Instrument Dealers Account shall remain, and the board may use funds in the account for the purpose of paying the expenses of administering and enforcing the provisions of this chapter.

(Acts 1971, No. 2425, p. 3858, §18; Acts 1994, No. 94-180, p. 224, §3; Act 2016-112, §1.)

Section 34-14-34 Fees.

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

(1) Initial application fee for an apprentice permit, hearing aid specialist license, and hearing aid dispenser license.

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

(3) Renewal fee for the renewal of a hearing aid specialist license and the renewal of a hearing aid dispenser license.

(4) Permit fee for an apprentice permit.

(5) Renewal fee for an apprentice permit.

(6) Qualifying examination and retest examination fees.

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

(8) Late renewal fee.

(9) Reinstatement license fee.

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

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

(12) Verification of license fee.

(13) Mailing list fee.

(14) Returned check fee.

(15) Special assessment fee.

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

(Act 2016-112, §2.)

Appendix II: Professional Services by Vendor

	FY 2020	FY 2021	FY 2022	FY 2023
<u>Administrative Services</u>				
<i>Education/Training Consultants-Professional</i>				
International Hearing Society	\$ 350.00	\$ 1,016.55	\$ 777.63	\$ 664.87
<i>Sanitation Services</i>				
Gilmore Moving and Storage, Inc		29.79		
<i>Personnel Department Services</i>				
State Personnel Dept				418.00
<i>Advertising</i>				
Legislative Services Agency	370.00	100.00	90.00	
<i>Inter-departmental Professional Services</i>				
Legislative Services Agency	100.00		100.00	
<i>Mailing Services</i>				
Department of Finance	5.00	6.45	8.60	6.42
Administrative Services Total	825.00	1,152.79	976.23	1,089.29
<u>Data Processing Services</u>				
<i>Finance and IT Planning/Oversight</i>				
Office of Information Technology		2.86		
<i>Inter-department Professional Service</i>				
Department of Finance – STAAR’s Payment	2,700.00			
<i>Comptroller Services</i>				
Department of Finance	397.05	436.71	487.67	646.00
<i>State Business Systems (SBS) Billing</i>				
Department of Finance	54.00	128.75	158.75	168.00
Data Processing Services Total	3,151.05	568.32	646.42	814.00
Total Professional Services	\$3,976.05	\$1,721.11	\$1,622.65	\$1,903.29



Appendix III: Board Members

STATE OF ALABAMA HEARING INSTRUMENT DEALERS BOARD

400 S. Union Street, Suite 235B
Montgomery, AL 36104
(334) 593-3777

TO: Examiners of Public Accounts

DATE: May 14, 2024

SUBJECT: Current Board Members

Stephen Michael, Board Chairman
Black Male

Appointed 1/22/21 Expires 12/31/24

Amy Farmer, Board Member
White Female

Appointed 1/22/12 Expires 12/31/24

Christopher Hicks, Board Member
White Male

Appointed 12/15/23 Expires 12/31/25

William Meyer, Consumer Board Member
White Male

Appointed 1/1/2024 Expires 12/31/27

Todd Wright, Board Member
White Male

Appointed 1/1/2024 Expires 12/31/27

Donald Littrell, Board Member
White Male

Appointed 5/10/24 Expires 12/31/27

Physician (ENT) Board Member
Vacant

Sandra Bice, Current Executive Secretary (As of 11/1/20)
hidb@att.net

Sincerely,

Sandra Bice
Executive Secretary

Appendix IV: Board's Response to Significant Issues



STATE OF ALABAMA HEARING INSTRUMENT DEALERS BOARD

400 S. Union Street, Suite 235B
Montgomery, AL 36104
(334) 593-3777

July 15, 2024

Dixie Thomas
Director of Operational Audits
Department of Examiners of Public Accounts
P. O. Box 302251
Montgomery AL 36130-2251

Subject: Response to Significant Issues

Dear Ms. Thomas:

The following response is provided for your consideration with respect to Significant Issues for the Sunset Committee report.

Significant Issue 2024-001

Response:

The Board was made aware of the need to revise our public-records policies and establish a public-records webpage and is taking the necessary steps to ensure compliance with Executive Order 734.

Significant Issue 2024-002

Response:

The Board was made aware that the physician member position on the Board has been vacant since December 31, 2018 and is actively seeking to fill that position.

Significant Issue 2024-003

Response:

The Board was made aware that six of the sixteen (38%) scheduled Board meetings from January 2020 through January 2024 had to be rescheduled due to lack of a quorum. These meetings had to be rescheduled due to illnesses (COVID, flu, etc.) The Board is seeking to improve on this percentage.

Significant Issue 2024-004

Response:

The Board was made aware of the 15 days to post vacancies on the Secretary of State's website as a result of the resignation of a board member. The Board is taking the necessary steps to ensure compliance with the Open Meeting Act requirements.

Significant Issue 2024-005

Response:

The Board was made aware that three of the four complainants (75%) who responded to the survey indicated that the Board did not communicate the results of their complaint to them. The Executive Secretary mails or emails the result letters to the complainants. A copy of these letters can be found in the complaint files.

Significant Issue 2024-006

Response:

The Board is sympathetic to licensees regarding over the counter (OTC) and internet sales of hearing aids and insurance companies/reimbursements. However it cannot prohibit by statute or rule an activity permitted by federal law and does not govern insurance-related matters. The Board does continue to protect the public through its licensure, adoption of practice regulations and enforcement of those regulations.

If you need any additional information, please feel free to contact our office.

Sincerely,

A handwritten signature in cursive script that reads "Sandra Bice".

Sandra Bice
Executive Secretary