

DEPARTMENT OF REGULATORY AGENCIES

Office of Hearing Aid Provider Licensure

HEARING AID PROVIDER RULES

3 CCR 711-1

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

AUTHORITY

Basis: These rules are promulgated and adopted by the Director of the Division of Professions and Occupations pursuant to section 12-230-301(3), C.R.S.

Purpose

These rules are adopted by the Director in order to clarify statutory requirements pursuant to Article 230 of Title 12.

1.1 Original Licensure

The purpose of this Rule is to clarify the requirements for licensure pursuant to section 12-230-201, C.R.S.

- A. To qualify for licensure as hearing aid provider a person must have:
1. Passed the National Competency Examination (NCE) offered by the National Board for Certification in Hearing Instrument Sciences (NBC-HIS); or
 2. Passed the International Licensing Examination (ILE), developed by the International Hearing Society (IHS), or another appropriate entry-level examination approved by the Director; and
 - a. Completed at least six months of training with an audiologist or licensed hearing aid provider, or
 - b. Have an associate's degree in hearing aid fitting and dispensing that, at the time the applicant was enrolled and graduated, was offered by an institution of higher education or a post-secondary education program accredited by a national, regional, or state agency recognized by the U.S. Department of Education, or a program approved by the Director.

1.2 Licensure by Endorsement

The purpose of this Rule is to clarify licensure by endorsement requirements pursuant to section 12-230-203, C.R.S.

- A. To qualify for licensure by endorsement an applicant must:
1. Possess an active license in good standing to practice as a hearing aid provider in another state or territory of the United States or in a foreign country; and

2. Present satisfactory proof to the Director that the active license in good standing issued required qualifications substantially equivalent to the qualifications for original licensure in Colorado.
- B. Substantially equivalent qualifications may be determined by the Director and may include the following:
 1. Earned a degree with a concentration in hearing aid fitting and dispensing, or completed supervised training to do so, and
 2. Passed an acceptable entry-level examination or obtained a certificate of competency in hearing aid fitting and dispensing.
- C. The Director may consider substituting two years of active practice in good standing as a hearing aid provider within the last five years prior to the date of application in place of either sections (B)(1) or (2) above.
- D. Military service shall be credited towards the requirements of active practice of sections (C) of this Rule, if the military experience generally conforms to the scope of practice of hearing aid providers in Colorado as specified in section 12-230-104, C.R.S.

1.3 Hearing Aid Provider Trainees, Apprentices, and Associates

The purpose of this Rule is to clarify the transition of trainee, apprentice, and associate license types; establish the time period during which an apprentice license shall be valid, and to specify the components of the training required to be completed by apprentices pursuant to section 12-230-204, C.R.S.

- A. Unlicensed Trainees and Employees
 1. As of July 1, 2013, no new trainee licenses will be issued. Trainee licenses that were issued prior to that date expired on June 30, 2013.
 2. An unlicensed person in this state training to be a licensed hearing aid provider after June 30, 2013, and prior to June 1, 2014, may do so under the direct, line-of-sight supervision of a licensed hearing aid provider. However, such person is not permitted to sell hearing aids independently of the supervising hearing aid provider, and cannot conduct hearing tests or perform the initial fitting of hearing aids.
 3. A licensed hearing aid provider may hire and employ unlicensed staff to assist with conducting business practices and to assist in dispensing hearing aids if the unlicensed staff is properly supervised by the licensed hearing aid provider, except that the unlicensed employee(s) may not perform any of the acts listed in section (B)(2) of this Rule, except for subsection (j).
- B. Licensed Apprentices
 1. On or after June 1, 2014, a person in this state training to be a licensed hearing aid provider must possess a valid apprentice license issued by the Director. Any work prior to the issuance of an apprentice license will not apply as training hours towards the apprentice license status.
 - a. The supervising hearing aid provider retains ultimate responsibility for the care provided by the apprentice and is subject to disciplinary action by the Director for failure to provide adequate supervision.

- b. An apprentice is not permitted to sell hearing aids independently of the supervising licensed hearing aid provider.
- 2. In order to be eligible for an apprentice license to be issued by the Director, an applicant must submit verification of training to become a licensed hearing aid provider, which training shall meet the requirements of Paragraph 3 below, and will be provided under the direct supervision of an identified licensed hearing aid provider whose license is active and in good standing.
- 3. Once licensed to begin training, an apprentice is required to complete at least the first six months of training under direct supervision, including a minimum of 300 documented hours of on-site supervised training in the following areas:
 - a. Taking a case history and review;
 - b. Otoscopy;
 - c. Testing of hearing including air conduction and bone conduction with proper masking when needed;
 - d. Testing of speech including speech recognition threshold (SRT), most comfortable loudness level (MCL), uncomfortable loudness level (UCL), and discrimination with proper masking when needed;
 - e. Interpreting hearing tests and the making of medical referrals as necessary;
 - f. Taking of ear impressions suitable for hearing aids and ear molds;
 - g. Fitting and post-fitting adjustments;
 - h. Checking for proper fit and making needed adjustments;
 - i. Verifying the hearing aid performance to determine if the hearing aid is correcting and conforming to the hearing loss as expected. This may include, but is not limited to, the user of real ear measurement, word discrimination, aided versus unaided, or other forms of aided measurements as may be standard in the industry; and
 - j. Counseling, including the delivery of the hearing aid, insertion and removal of the hearing aid, instruction on changing the batteries, and education to the user and family as to the expectations and performance.
- 4. Once an apprentice has successfully completed his/her 300 documented hours of initial supervised training, then he/she may perform any of the activities in paragraph 3 above under the direct supervision of a licensed hearing aid provider. However, all hearing aid sales must be reviewed by the supervising licensed hearing aid provider and all contracts need to be signed by the supervising licensed hearing aid provider.
- 5. An apprentice is eligible to become a licensed hearing aid provider upon successful completion of at least six months of training under direct supervision, including a minimum of 300 documented hours of on-site supervised training, and passage of the International Licensing Examination (ILE), developed by the International Hearing Society (IHS), or another appropriate entry-level examination approved by the Director.

C. Licensed Associates

As of July 1, 2013, no new associate licenses will be issued. Associate licenses that are issued prior to that date are valid pursuant to section 12-5.5-204(6), C.R.S., [repealed] until the expiration date on the license. An associate license cannot be renewed, and once it expires, it cannot be reinstated.

1.4 Requirement for Reinstatement

The purpose of this Rule is to clarify the requirements for reinstatement of a hearing aid provider license that has expired pursuant to section 12-20-202(1)(a), C.R.S.

- A. A licensee applying for reinstatement of an expired license shall complete a reinstatement application, and pay a reinstatement fee.
- B. If the license has been expired for more than two years from the date of receipt of the reinstatement application, a licensee applying for reinstatement of an expired license shall establish "competency to practice" under sections 12-20-202(2)(c)(II)(A) and (D), and 12-20-105, C.R.S., as follows:
 - 1. Verification of licensure in good standing from another state along with verification of active practice in that state for two years of the previous five years from the date of application for reinstatement;
 - 2. Completion of thirty hours of continuing education courses related to the practice of hearing aid providers during the two years immediately preceding the application for reinstatement. The continuing education must meet the approval of the Director;
 - 3. Supervised practice for a period of no less than six months subject to the terms established by the Director;
 - 4. Retaking and achieving a passing score on the NCE offered by NBC-HIS within two years immediately preceding submission of an application for reinstatement;
 - 5. Maintained active Board certification with NBC-HIS; or
 - 6. By any other means approved by the Director.
- C. An applicant seeking to reinstate a license that has been expired for more than five years is not eligible to complete section (B)(2) of this Rule.

1.5 Customer Records

The purpose of this Rule is to clarify the requirements for maintaining customer records pursuant to section 12-230-205, C.R.S., by a licensed hearing aid provider (licensee).

- A. Each licensee who sells a hearing aid or provides goods or services to a customer shall develop a written plan to ensure the maintenance of customer records pursuant to section 12-230-205, C.R.S., and must address at least the following:
 - 1. The storage and proper disposal of customer records;
 - 2. The disposition of customer records in the event the licensee dies, retires, or otherwise ceases to practice or provide hearing aid provider services to customers; and

3. The method by which customers may access or obtain their records promptly if any of the events described in paragraph (2) above of this Rule occurs.
- B. The licensee or licensee's supervisor or licensee designated by licensee's employer shall maintain all customer records for at least seven years. These records shall identify customer's name, the goods and services provided to each customer (excluding minor parts, accessories, and batteries), and the date and price of each transaction.

1.6 Written Disclosures to Purchasers

The purpose of this rule is clarify the type of written disclosures to be provided to purchasers of hearing aids pursuant to sections 12-230-301(3) and 6-1-701(1)(c)(I)(A), C.R.S. that will protect such purchasers and that are necessary for the enforcement and administration of Article 230 of Title 12.

- A.
1. Licensees shall identify themselves by listing their name, license type (i.e., hearing aid provider), license number, business address and telephone number on every contract or purchase agreement for the sale of a hearing aid.
 2. It must be disclosed that an apprentice is not permitted to sell hearing aids independently of the supervising licensed hearing aid provider.
- B. Licensees shall include provisions on all contracts and purchase agreements stating the following:
1. Hearing aid providers and apprentices are regulated by the Division of Professions and Occupations.
 2. Any complaints can be filed against the licensee with the Office of Hearing Aid Provider Licensure within the Division of Professions and Occupations.
 3. The Office of Hearing Aid Provider Licensure's website, address, and telephone number.
- C. If any part of the purchase price of a hearing aid, including any fees for services, is to be non-refundable, the following disclosures of all non-refundable charges are required on the contract or purchase agreement and must be clearly stated as non-refundable:
1. A separate line item clearly stated as non-refundable, the total cost of all non-refundable charges related to the purchase of the hearing aids that are not included in the purchase price of the hearing aids such as: fitting and consultation fees, rehabilitation services, and/or non-refundable parts, attachments, or accessories that are disposable, one-time use, or similar products of low cost, e.g. batteries and cords.
 2. A provision that clearly identifies all professional services including, but not limited to, those listed in paragraph 1 above, and the exact charge for each service.

1.7 Reporting Convictions and Other Adverse Actions

The purpose of this Rule is to clarify the procedures for reporting convictions and other adverse actions to include judgments and administrative proceedings pursuant to section 12-230-401(1)(o), C.R.S. A licensee, as defined in section 12-230-102(4), C.R.S. including those licensed pursuant to section 12-230-204, shall inform the Office Hearing Aid Provider Licensure, in a manner set forth by the Director, within thirty days of any adverse action. For purposes of this rule, "adverse action" includes the following:

- A. Conviction or acceptance of a plea of guilty or nolo contendere or receipt of a deferred sentence in any court to a felony, or a crime involving fraud, deception, false pretense, theft, misrepresentation, false advertising, or dishonest dealing.
- B. The notice to the Director shall include the following information:
 - 1. If the event is an action by a governmental agency (as described above): the name of the agency, its jurisdiction, the case name, the docket, proceeding or case number by which the event is designated, and a copy of the consent decree, order, or decision;
 - 2. If the event is a felony conviction or a conviction of a crime involving fraud, deception, false pretense, theft, misrepresentation, false advertising, or dishonest dealing: the court, its jurisdiction, the case name, the case number, a description of the matter or a copy of the indictment or charges, and any plea or verdict entered by the court. The licensee shall also provide to the Director a copy of the imposition of sentence related to the felony conviction and the completion of all terms of the sentence within 90 days of such action; and
 - 3. If the event concerns a civil action or arbitration proceeding: the court or arbiter, the jurisdiction, the case name, the case number, a description of the matter or a copy of the complaint, and a copy of the verdict, the court or arbitration decision, or, if settled, the settlement agreement and court's order of dismissal.
- C. The licensee may submit a written statement with any notice under this Rule to be included in the licensee records.
- D. This Rule shall apply to any adverse action as described in section (A) of this Rule that occurs on or after the effective date of this Rule.

1.8 Duty to Report Information

The purpose of this Rule is to clarify the requirement of licensees to notify the Director of a change in submitted information pursuant to section 12-230-301(3), C.R.S.

- A. The licensee shall inform the Office of Hearing Aid Provider Licensure in a clear, explicit and unambiguous written statement of any name, address, telephone, or email change within thirty days of the change. The Office of Hearing Aid Provider Licensure will not change a licensee's information without explicit written notification from the licensee. Notification by any manner approved by the Division is acceptable.
 - 1. The Division of Professions and Occupations maintains one contact address for each licensee, regardless of the number of licenses the licensee may hold.
 - 2. Address change requests for some, but not all communications, or for confidential communications only, are not accepted.
- B. The Office of Hearing Aid Provider Licensure requires one of the following forms of documentation to change a licensee's name or social security number:
 - 1. Marriage license;
 - 2. Divorce decree;
 - 3. Court order; or

4. Driver's license or social security card with a second form of identification may be acceptable at the discretion of the Division.

1.9 Declaratory Orders

The purpose of this Rule is to clarify procedures for the handling of requests for declaratory orders filed pursuant to the Colorado Administrative Procedures Act at section 24-4-105(11), C.R.S.

- A. Any person or entity may petition the Director for a declaratory order to terminate controversies or remove uncertainties as to the applicability of any statutory provision or of any rule or order of the Director.
- B. The Director will determine, at her or his discretion and without notice to petitioner, whether to rule upon any such petition. If the Director determines that she or he will not rule upon such a petition, the Director shall promptly notify the petitioner of her or his action and state the reasons for such decision.
- C. In determining whether to rule upon a petition filed pursuant to this rule, the Director will consider the following matters, among others:
 1. Whether a ruling on the petition will terminate a controversy or remove uncertainties as to the applicability to petitioner of any statutory provisions or rule or order of the Director.
 2. Whether the petition involves any subject, question or issue that is the subject of a formal or informal matter or investigation currently pending before the Director or a court involving one or more petitioners.
 3. Whether the petition involves any subject, question or issue that is the subject of a formal or informal matter or investigation currently pending before the Director or a court but not involving any petitioner.
 4. Whether the petition seeks a ruling on a moot or hypothetical question or will result in an advisory ruling or opinion.
 5. Whether the petitioner has some other adequate legal remedy, other than an action for declaratory relief pursuant to CRCP 57, which will terminate the controversy or remove any uncertainty as to the applicability to the petitioner of the statute, rule or order in question.
- D. Any petition filed pursuant to this Rule shall set forth the following:
 1. The name and address of the petitioner and whether the petitioner is licensed pursuant to Title 12, Article 230.
 2. The statute, rule or order to which the petition relates.
 3. A concise statement of all of the facts necessary to show the nature of the controversy or uncertainty and the manner in which the statute, rule, or order in question applies or potentially applies to the petitioner.
- E. If the Director determines that she or he will rule on the petition, the following procedures shall apply:
 1. The Director may rule upon the petition based solely upon the facts presented in the petition. In such a case:

- a. Any ruling of the Director will apply only to the extent of the facts presented in the petition and any amendment to the petition.
 - b. The Director may order the petitioner to file a written brief, memorandum or statement of position.
 - c. The Director may set the petition, upon due notice to petitioner, for a non-evidentiary hearing.
 - d. The Director may dispose of the petition on the sole basis of the matters set forth in the petition.
 - e. The Director may request the petitioner to submit additional facts in writing. In such event, such additional facts will be considered as an amendment to the petition.
 - f. The Director may take administrative notice of facts pursuant to the Administrative Procedure Act at section 24-4-105(8), C.R.S., and may utilize her or his experience, technical competence, and specialized knowledge in the disposition of the petition.
2. If the Director rules upon the petition without a hearing, she or he shall promptly notify the petitioner of her decision.
3. The Director may, at her or his discretion, set the petition for hearing, upon due notice to petitioner, for the purpose of obtaining additional facts or information or to determine the truth of any facts set forth in the petition or to hear oral argument on the petition. The notice to the petitioner shall set forth, to the extent known, the factual or other matters into which the Director intends to inquire. For the purpose of such a hearing, to the extent necessary, the petitioner shall have the burden of proving all the facts stated in the petition; all of the facts necessary to show the nature of the controversy or uncertainty; and the manner in which the statute, rule, or order in question applies or potentially applies to the petitioner and any other facts the petitioner desires the Director to consider.
- F. The parties to any proceeding pursuant to this rule shall be the Director and the petitioner. Any other person may seek leave of the Director to intervene in such a proceeding, and leave to intervene will be granted at the sole discretion of the Director. A petition to intervene shall set forth the same matters as are required by section (D) of this Rule. Any reference to a "petitioner" in this Rule also refers to any person who has been granted leave to intervene by the Director.
- G. Any declaratory order or other order disposing of a petition pursuant to this rule shall constitute an agency action subject to judicial review pursuant to the Colorado Administrative Procedures Act at section 24-4-106, C.R.S.
- 1.10 Credit for Military Education, Training, or Experience and Pathways to Licensure for Veterans and Members of the Military**

The purpose of this Rule is to provide pathways to licensure for individuals with training, education, or experience gained during military service pursuant to sections 12-20-202(4) and 24-4-201 *et seq.*, C.R.S.

- A. An applicant for licensure may submit information about the applicant's education, training, or experience acquired during military service. It is the applicant's responsibility to provide timely and complete information for the Director's review.

- B. In order to meet the requirements for licensure, such education, training, or experience must be substantially equivalent to the required qualifications that are otherwise applicable at the time the application is received by the Director.
- C. The Director will determine, on a case-by-case basis, whether the applicant's military education, training, or experience meet the requirements for licensure.
- D. Documentation of military experience, education, or training may include, but is not limited to, the applicant's Certificate of Release or Discharge from Active Duty (DD-214), Verification of Military Experience and Training (DD-2586), military transcript, training records, evaluation reports, or letters from commanding officers describing the applicant's practice.
- E. For applicants submitting military education, training, or experience when applying for original licensure under Rule 1.1(A)(2), but who do not have the degree specified in Rule 1.1(A)(2)(b):
 - 1. Applicants must pass the examination specified in Rule 1.1(A)(2).
 - 2. If the Director determines that the submitted military education, training, or experience only partially satisfies the training requirement specified in Rule 1.1(A)(2)(a), the Director will advise applicants on the amount of additional training, education, or experience that will be required to qualify for licensure.

Editor's Notes

History

Entire rule eff. 09/01/2010.

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