

R156. Commerce, Occupational and Professional Licensing.

R156-46a. Hearing Instrument Specialist Licensing Act Rule.

R156-46a-101. Title.

This rule is known as the "Hearing Instrument Specialist Licensing Act Rule."

R156-46a-102. Definitions.

In addition to the definitions as used in Title 58, Chapter 1, Division of Occupational and Professional Licensing, and Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, or this rule, "unprofessional conduct," is further defined in Subsection 58-1-203(1)(e), in Section R156-46a-502a.

R156-46a-103. Authority - Purpose.

This rule is adopted by the division under the authority of Subsection 58-1-106(1)(a) to enable the division to administer Title 58, Chapter 46a.

R156-46a-104. Organization - Relationship to Rule R156-1.

The organization of this rule and its relationship to Rule R156-1 is as described in Section R156-1-107.

R156-46a-302a. Qualifications for Licensure - Examination Requirements.

(1)(a) In accordance with Subsections 58-46a-302(1)(d) and 58-46a-302(2)(c), the requirements for the examination of a hearing instrument specialist and of a hearing instrument intern are defined to require a minimum score of 75% on the Utah Law and Rules Examination for Hearing Instrument Specialists.

(b) If an individual's license as a hearing instrument intern expires before the individual becomes licensed as a hearing instrument specialist, the individual shall retake and pass the Utah Law and Rules Examination before the individual may reapply for licensure as a hearing instrument intern.

(2)(a) In accordance with Subsection 58-46a-302.5(1)(a), a hearing instrument intern shall obtain a passing score on each section of the International Hearing Society (IHS) Practical Examination for Hearing Instrument Interns.

(b) If a hearing instrument intern receives a failing score on any section of the exam, the intern may retake that section within 60 days. If the intern does not pass each failed section within the 60-day period, the intern shall retake the entire exam.

(3)(a) In accordance with Subsection 58-46a-302.5(2)(b), an applicant for licensure as a hearing instrument specialist shall obtain a passing score on the International Hearing Society's (IHS) International Licensing Exam (ILE).

(b) If a hearing instrument intern fails the ILE three times:

(i) the intern shall request from the Division an authorization to test before each subsequent retake of the ILE; and

(ii) the Division shall require as a condition for approval of an authorization to test that the intern and the intern's supervisor submit to the Division a written plan of study that includes appropriate subject matter to assist the intern in passing the ILE.

R156-46a-302b. Qualifications for Licensure - Internship Supervision Requirements.

In accordance with Subsection 58-46a-102(7), the requirements for supervision of a hearing instrument intern are defined as follows:

(1) A hearing instrument intern supervisor shall:

(a) supervise no more than one hearing instrument intern on direct supervision;

(b) supervise no more than two hearing instrument interns at one time;

(c) begin an internship program only after:

(i) the hearing instrument intern is properly licensed as a hearing instrument intern; and

(ii) the supervisor is approved by the Division; and

(d) notify the Division within ten working days if an internship program is terminated.

(2) If a supervised internship program is terminated, then within 60 days of termination, the hearing instrument intern

shall:

(a) obtain a new supervisor and notify the Division of the new supervised internship program; or

(b) surrender their hearing instrument intern license.

R156-46a-303. Renewal Cycle - Procedures.

(1) In accordance with Subsection 58-1-308(1), the renewal date for the two-year renewal cycle applicable to licensees under Title 58, Chapter 46a is established by rule in Section R156-1-308a.

(2) Renewal procedures shall be in accordance with Sections R156-1-308c through R156-1-308l.

R156-46a-304. Continuing Education.

In accordance with Section 58-46a-304, the continuing education requirement for renewal of licensure as a hearing instrument specialist is defined as follows:

(1) A hearing instrument specialist shall complete at least 16 hours of continuing education during each two-year renewal cycle.

(2) Continuing education courses shall be in one or more of the following topics:

- (a) acoustics;
- (b) nature of the ear such as normal ear, hearing process, disorders of hearing;
- (c) hearing measurement;
- (d) hearing aid technology;
- (e) selection of hearing aids;
- (f) marketing and customer relations;
- (g) client counseling;
- (h) ethical practice;
- (i) state laws and regulations regarding the dispensing of hearing aids; and
- (j) other topics approved by the Division.

(3) Continuing education courses shall be approved by:

- (a) the American Speech-Language-Hearing Association (ASHA);
- (b) the American Academy of Audiology (AAA); or
- (c) the International Hearing Society (IHS).

(4) A licensee may fulfill continuing education requirements by maintaining current National Board for Certification in Hearing Instrument Sciences (NBC-HIS) board certification.

(5) A licensee shall maintain documentation showing compliance with the requirements of this section, such as copies of transcripts or certificates of completion or of board certification, for two years from the end of the renewal period for which the continuing education is due.

R156-46a-502a. Unprofessional Conduct.

"Unprofessional conduct" includes:

- (1) violating any state or federal law applicable to persons practicing as a hearing instrument specialist or hearing instrument intern;
- (2) failing to perform the minimum components of an evaluation for a hearing aid as set forth in Section R156-46a-502b;
- (3) dispensing a hearing aid without:
 - (a) the patient having received a medical evaluation as required by Subsection 58-46-502(5) within the six-month period prior to the purchase of the hearing aid; or
 - (b) a document signed by the purchaser being a fully informed adult waiving the medical evaluation in accordance with Food and Drug Administration (FDA) required disclosures in CFR Title 21, Section 801.421, except a person under the age of 18 years may not waive the medical evaluation;
- (4) engaging in unprofessional conduct specified in Subsection 58-1-501(2)(h), including:
 - (a) quoting prices of competitive hearing instruments or devices without disclosing that they are not the current prices;
 - (b) showing, demonstrating, or representing competitive models as being current when they are not; or
 - (c) using stalling tactics, excuses, arguing or attempting to dissuade the consumer, to prevent or delay the consumer from exercising the 30-day right to cancel a hearing aid purchase pursuant to Subsection 58-46a-503(1); and
- (5) failing to conform to the generally accepted and recognized standards and ethics of the profession including those established in the Code of Ethics of the International Hearing Society, adopted March 2009, which is hereby incorporated by reference.

R156-46a-502b. Minimum Components of an Evaluation for a Hearing Aid and Dispensing of a Hearing Aid.

- (1) The minimum components of a hearing aid examination include:
 - (a) air conduction tests at frequencies of 250, 500, 1000, 2000, and 4000 Hertz;
 - (b) appropriate masking if the air conduction threshold at any one frequency differs from the bone conduction threshold of the contralateral or non-test ear by 40 decibels at the same frequency;
 - (c) bone conduction tests at 500, 1000, and 2000 Hertz, with proper masking;
 - (d) speech audiometry by live voice or recorded voice, including speech discrimination testing, most comfortable loudness (MCL) measurements, and uncomfortable levels of loudness (UCL) measurements; and
 - (e) recording and interpretation of audiograms and speech audiometry and other appropriate tests for the sole purpose of determining proper selection and adaptation of a hearing aid.
- (2) Only if the procedures in Subsection (1)(a) are clearly impractical, may the licensee select the best instrument to compensate for the loss by trial of one or more instruments.
- (3) Tests performed by a physician specializing in diseases of the ear, a clinical audiologist, or another licensed hearing instrument specialist shall be accepted if they were performed within six months prior to the dispensing of the hearing aid.

R156-46a-502c. Calibration of Technical Instruments.

The requirement in Subsection 58-46a-303(3)(b) for calibration of each appropriate technical instruments used in practice is defined as follows:

- (1) each audiometer used in the fitting of hearing aids shall be calibrated when necessary, but not less than annually;
- (2) the calibration shall include to ANSI standards calibration of frequency accuracy, acoustic output, attenuator linearity, and harmonic distortion; and

(3) calibration shall be accomplished by the manufacturer, or a properly trained person, or an institution of higher learning equipped with proper instruments for calibration of an audiometer.

R156-46a-502d. Form of Written Informed Consent.

In accordance with Subsection 58-46a-502(4)(c), an agreement to provide hearing instrument specialist goods and services shall include the patient's informed consent in substantially the following form.

TABLE

ACKNOWLEDGEMENT OF INFORMED CONSENT

As a consumer of hearing instrument specialist goods or services, you are required to be informed of certain information as provided in Utah Code Sections 58-46a-502 and 503.

1. The list of goods and services to be provided to you include the following: (add additional lines as required)

Services: Charge:
Goods (circle as applicable: new, used, reconditioned): Charge:
These goods (circle as applicable: are, are not) covered by a warranty or guarantee. Additional information about any warranty or guarantee is attached.

2. The licensees providing these goods and services are: (add additional lines as required)

hearing instrument specialist:
name: license number:

hearing instrument specialist intern
name: license number:

3. The expected results of the goods and services are:

4. If the goods to be provided include a hearing instrument:

(a) Additional information is attached about hearing instruments that work with assisted listening systems that are compliant with ADA Standards for Accessible Design adopted by the United States Department of Justice in accordance with the American with Disabilities Act, 42 U.S.C. Sec. 12101 et seq.

(b) You have the right to receive a written receipt or written contract, which includes notice to you that you have a 30-day right to cancel the purchase and obtain a refund if you find the hearing aid does not function adequately for you.

(i) The 30-day right to cancel shall commence from either the date the hearing aid is originally delivered to you or the date the written receipt or contract is delivered to you, whichever is later. The 30-day period shall be tolled for any period during which the hearing aid seller, dealer, or fitter has possession or control of the hearing aid after its original delivery.

(ii) Upon exercise of the 30-day right to cancel a hearing aid purchase, the seller of the hearing aid is entitled to a cancellation fee not to exceed 15% of all fees charged to the consumer, including testing, fitting, counseling, and the purchase price of the hearing aid. The exact amount of the cancellation fee shall be stated in the written receipt or contract provided to the consumer.

5. If the goods and services provided do not substantially enhance your hearing as stated in the expected results, you are entitled to:

(a) necessary intervention to produce satisfactory recovery results consistent with the representations made above at no additional cost; or

(b) refund of the fees you paid for the hearing instrument within a reasonable period of time after finding that the hearing instrument does not substantially enhance your hearing.

I hereby acknowledge being informed of the above and consent to receive the goods and services.

Patient's Signature and Date

KEY: licensing, hearing aids, hearing instrument specialist, hearing instrument intern

Date of Enactment or Last Substantive Amendment: December 10, 2020

Notice of Continuation: November 8, 2018

Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-46a-101; 58-46a-304