

**RULES  
OF  
THE TENNESSEE BOARD OF COMMUNICATIONS DISORDERS AND SCIENCES  
COUNCIL FOR LICENSING HEARING INSTRUMENT SPECIALISTS**

**CHAPTER 1370-02  
GENERAL RULES GOVERNING HEARING INSTRUMENT SPECIALISTS**

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**1370-02-.01 DEFINITIONS.** As used in this rule, the terms and acronyms shall have the following meanings ascribed to them.

- (1) Advertise - Informational communication to the public in any manner to attract attention to the practice as a hearing instrument specialist. This includes, but is not limited to, business solicitations with or without qualifications, in a card, sign, or device to any person; or the causing, permitting or allowing any signs or marking on or in any building or structure, or in any newspaper, or magazine or in any directory, or on radio or television or by advertising by any other means designed to secure public attention.
- (2) Applicant - An individual seeking licensure by the Council who has submitted the appropriate application and fees.
- (3) Apprentice - A person who is registered with the Council, engaged in an approved licensing program, and sponsored by a hearing instrument specialist duly licensed in Tennessee.
- (4) Apprentice license - A license issued for not longer than one (1) year by the Council to apprentices which authorizes the fitting and selling of hearing aids, pursuant to T.C.A. § 63-17-208, under the direct supervision of a sponsoring licensed hearing instrument specialist.
- (5) Board - The Board of Communications Disorders and Sciences.
- (6) Consumer - That member of the public who seeks the services of a licensed hearing instrument specialist.
- (7) Council - The Council for Licensing Hearing Instrument Specialists.
- (8) Council Administrative Office - The office of the Unit Director assigned to the Council located at 665 Mainstream Drive, Nashville, TN 37243.
- (9) Council designee - Any person who has received a written delegation of authority from the Council to perform functions subject to review and ratification by the full Council where provided by these rules.

(Rule 1370-02-.01, continued)

- (10) Clock hour - A clock hour represents (60 minutes) actual time in a continuing education activity. Providers who measure continuing education activities in “continuing education units” shall define CEU in clock hours.
- (11) Closed file - An administrative action which renders an incomplete, denied, or abandoned file closed.
- (12) Continuing education - Continuing education is considered to be education beyond the basic licensing education requirement and which is related to the practice of hearing instrument dispensing.
- (13) Direct supervision - The requirement of a sponsoring licensee to direct, coordinate, review, inspect, and approve each act of service performed by an apprentice licensee in connection with the practice of dispensing and fitting hearing instruments, but does not require the constant actual physical presence of the sponsoring licensee, pursuant to Rule 1370-02-.14.
- (14) Division - The Division of Health Related Boards, Tennessee Department of Health, from which the Council receives administrative support.
- (15) Examination fee - To be paid each time an examination or component of an examination is taken.
- (16) Fee - Money or anything of value including, but not limited to, a salary offered or received as compensation in return for rendering services.
- (17) Fitting and/or dispensing hearing instruments - The evaluation or measurement of human hearing by the use of an audiometer for the purpose of making selections, adaptations and/or sale of hearing instruments. The term also includes the sale of hearing instrument and the making of impressions for earmolds to be used as part of the hearing instrument.
- (18) HRB - When the acronym HRB appears in this rule, it is intended to mean the Division of Health Related Boards.
- (19) He/She - In these rules, all references to the masculine gender shall also apply to the feminine gender.
- (20) Hearing instrument (aid) - Any instrument or device designed for, or offered for the purpose of, aiding or improving impaired human hearing, and any parts, attachments or accessories of such an instrument or device.
- (21) Licensed Hearing Instrument Specialist (HIS) - A licensed person who engages in the fitting or selling of hearing instruments to an individual with impaired hearing.
- (22) IHS - When the acronym IHS appears in the rule, it is intended to mean International Hearing Society.
- (23) License - Document issued to an applicant who successfully completes the licensure process. The license takes the form of an “artistically designed” license as well as other versions issued bearing an expiration date.
- (24) Licensee - Any person who has been lawfully issued a license by the Council and Board to engage in the practice of dispensing and fitting hearing instruments.
- (25) NBC-HIS - When the acronym NBC-HIS appears in this rule, it is intended to mean the National Board for Certification in Hearing Instrument Sciences.

(Rule 1370-02-.01, continued)

- (26) Sell or sale - Any transfer of title or of the right to use by lease, bailment, or any other contract, either oral or written, excluding transactions with distributors or dispensers.
- (27) Sponsor - A licensed hearing instrument specialist who is responsible for training and supervision of an individual holding an apprentice license.
- (28) Supervision - To coordinate, direct, and inspect continuously and at first hand the actions of an apprentice.
- (29) Training - The instruction of an apprentice in the practice of dispensing and fitting of hearing instruments.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 63-15-103, 63-17-105, and 63-17-203. **Administrative History:** Original rule filed November 22, 1978; effective January 8, 1979. Repeal and new rule filed September 24, 1987; effective November 8, 1987. Repeal and new rule filed April 29, 1992; effective June 13, 1992. Repeal and new rule renumbered from 0760-01-.01 filed December 28, 1999; effective March 12, 2000. Amendment filed October 28, 2002; effective January 11, 2003. Amendments filed May 14, 2018; effective August 12, 2018.

#### 1370-02-.02 SCOPE OF PRACTICE.

- (1) Nothing contained in these rules shall be construed to permit persons licensed under T.C.A. §§ 63-17-201 through 63-17-222 to treat the ear for any defect whatsoever in any manner nor to administer any drug.
- (2) Nothing contained in these rules shall be construed to apply to physicians and surgeons duly licensed by the Tennessee Board of Medical Examiners or the Tennessee Board of Osteopathic Examination.
- (3) Rights and privileges of licensure - Any person who possesses a valid unsuspended and unrevoked license has the right to use the title "hearing instrument specialist". No other person shall assume this title on any work, letter, sign, figure, advertisement, or device to indicate that the person using the same is a licensed HIS.
- (4) The practice of dispensing and fitting hearing instruments includes those practices used for the purposes of selection and adaption of hearing instruments, including direct observation of the ear, testing of hearing in connection with the fitting and selling of hearing instruments, taking of earmold impressions, fitting or sale of hearing instruments, and any necessary counseling.
- (5) The practice of selling hearing instruments does not include the act of concluding the transaction by a retail clerk.
- (6) Any person engaging in the fitting and sale of hearing instruments for a child under eighteen (18) years of age shall abide by FDA law and guidelines regarding dispensing of hearing instruments.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 63-15-103, 63-15-106, 63-17-203, and 63-17-206. **Administrative History:** Original rule filed November 22, 1978; effective January 8, 1979. Repeal and new rule filed September 24, 1987; effective November 8, 1987. Amendment filed March 1, 1990; effective April 15, 1990. Amendment filed January 9, 1991; effective February 23, 1991. Repeal and new rule filed April 29, 1992; effective June 13, 1992. Repeal and new rule renumbered from 0760-01-.02 filed December 28, 1999; effective March 12, 2000.

**1370-02-.03 NECESSITY OF LICENSURE.** Unless an individual holds a current unrevoked or unsuspended Tennessee license, he may not engage in the sale of or practice of dispensing or fitting of hearing instruments.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 63-15-105, 63-17-203, and 63-17-205. **Administrative History:** Original rule filed November 22, 1978; effective January 8, 1979. Repeal and new rule filed September 24, 1987; effective November 8, 1987. Repeal and new rule filed April 29, 1992; effective June 13, 1992. Repeal and new rule renumbered from 0760-01-.03 filed December 28, 1999; effective March 12, 2000.

**1370-02-.04 PRELIMINARY QUALIFICATIONS FOR LICENSURE.**

- (1) Licensed Hearing Instrument Specialist by Examination:
  - (a) Eighteen (18) years of age or older; and
  - (b) Education equivalent to two (2) years of accredited college level course work or hold National Board for Certification in Hearing Instrument Sciences (NBC-HIS) certification; and
  - (c) An applicant must pass the written examination, the practical skills examination, and the Tennessee Jurisprudence Examination as found in Rule 1370-02-.08.
- (2) Apprentice Hearing Instrument Specialist:
  - (a) Eighteen (18) years of age or older; and
  - (b) Education equivalent to two (2) years of accredited college level course work or hold National Board for Certification in Hearing Instrument Sciences (NBC-HIS) certification; and
  - (c) Sponsor to provide training and supervision.
- (3) Reciprocity for Applicants with NBC-HIS Certification:
  - (a) Eighteen (18) years of age or older; and
  - (b) Hold National Board for Certification in Hearing Instrument Sciences (NBC-HIS) certification; and
  - (c) Hold a current unencumbered license, registration, or certification from another state or country; and
  - (d) An applicant must pass the Tennessee Jurisprudence Examination as found in Rule 1370-02-.08.
- (4) Reciprocity for Applicants without NBC-HIS Certification:
  - (a) Eighteen (18) years of age or older; and
  - (b) Education equivalent to two (2) years of accredited college level course work; and
  - (c) Hold a current unencumbered license, registration, or certification from another state or country, which was based on passing a written and practical examination developed in accordance with IHS standards, with an overall passing score as determined by the IHS; and

(Rule 1370-02-.04, continued)

- (d) An applicant must pass the Tennessee Jurisprudence Examination found in Rule 1370-02-.08.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 63-15-107, 63-15-108, 63-15-111, 63-17-105, 63-17-203, 63-17-207, 63-17-208, 63-17-209, and 63-17-211 and 2019 Public Chapter 323. **Administrative History:** Original rule filed November 22, 1978; effective January 8, 1979. Repeal and new rule filed September 24, 1987; effective November 8, 1987. Amendment filed March 1, 1990; effective April 15, 1990. Repeal and new rule filed April 29, 1992; effective June 13, 1992. Repeal and new rule renumbered from 0760-01-.04 filed December 28, 1999; effective March 12, 2000. Amendments filed May 14, 2018; effective August 12, 2018. Amendments filed March 8, 2022; effective June 6, 2022.

#### **1370-02-.05 PROCEDURES FOR LICENSURE.**

- (1) Licensed Hearing Instrument Specialist.
  - (a) An applicant shall obtain a current application packet from the Council's Administrative Office, respond truthfully and completely to every question or request for information contained in the form, and submit it along with all documentation and fees required by the form and this rule to the Council's Administrative Office. It is the intent of this rule that all steps necessary to accomplish the filing of the required documentation be completed prior to filing an application and that all materials be filed simultaneously.
  - (b) Applications will be accepted throughout the year and processed in the Council's Administrative Office. Supporting documents, if requested by the Council, must be received by the Council's Administrative Office within sixty (60) days of receipt of the request or the application file shall be closed.
  - (c) Proof of Education or NBC-HIS Certification.
    - 1. It is the applicant's responsibility to provide evidence that he has fulfilled the educational requirements by instructing his college to submit an official transcript directly to the Council's Administrative Office. The transcript must carry the official seal of the school and reference the name under which the applicant has applied for licensure. If the name under which the transcript is issued differs from the applicant's current name, documentation must be submitted which supports such applicant's name change; or
    - 2. The applicant shall direct the National Board for Certification in Hearing Instrument Sciences to submit evidence that he is currently certified by the NBC-HIS.
  - (d) An applicant shall pay the nonrefundable application fee as provided in Rule 1370-02-.06 and submit the fee with the application.
  - (e) An applicant shall pay, at the time of application, the examination fees pursuant to Rule 1370-02-.06.
  - (f) Every person desiring to engage in fitting and dispensing hearing instruments shall be required to pass the examination pursuant to Rule 1370-02-.08.
  - (g) An applicant shall submit with his application a "passport" style photograph taken within the preceding twelve (12) months and attach it to the appropriate page of the application.
  - (h) An applicant shall submit with his application a certified photocopy of his birth certificate.

(Rule 1370-02-.05, continued)

- (i) An applicant shall disclose the circumstances surrounding any of the following:
    - 1. Conviction of any crime in any country, state, or municipality, except minor traffic violations.
    - 2. The denial of a license, certification, or registration or the previous or pending discipline of a license, certification, or registration by any other state or country.
  - (j) An applicant shall cause to be submitted to the Council's Administrative Office directly from the vendor identified in the Council's licensure application materials, the result of a criminal background check.
- (2) Licensed Hearing Instrument Specialist by Upgrade from Apprentice Licensure Status to HIS Licensure by Examination.
- (a) An individual who holds a Tennessee apprentice HIS license may, after ninety (90) days from the date of issuance of such license, submit to the Council's Administrative Office a request to upgrade to HIS licensure status by examination.
  - (b) Applications for upgrade will be accepted throughout the year and processed in the Council's Administrative Office.
  - (c) An applicant for upgrade shall obtain an application form from the Council's Administrative Office; however, an applicant will not be required to provide duplicates of documents which were submitted to support his application for apprentice.
  - (d) An applicant for upgrade shall submit the nonrefundable HIS application fee as provided in Rule 1370-02-.06 with his application for upgrade.
  - (e) An applicant for upgrade shall, at the time of application, pay the HIS examination fees as provided in Rule 1370-02-.06.
  - (f) An applicant for upgrade shall provide proof of sixty (60) classroom hours of approved instructions in Hearing Evaluations and/or Hearing Aid Fitting.
  - (g) An applicant for upgrade shall provide a photocopy of his apprentice license along with the application.
  - (h) An applicant for upgrade shall be required to pass the examinations pursuant to Rule 1370-02-.08 as a prerequisite to licensure.
- (3) Licensed Hearing Instrument Specialist by Reciprocity for Applicants with NBC-HIS Certification:
- (a) Applications will be accepted throughout the year and processed in the Council's Administrative Office.
  - (b) An applicant shall obtain a current application form from the Council's Administrative Office, respond truthfully and completely to every question or request for information contained in the form, and submit it along with all documentation and fees required by the form and this rule to the Council's Administrative Office. It is the intent of this rule that all steps necessary to accomplish the filing of the required documentation be completed prior to filing an application and that all documentation be filed simultaneously.

(Rule 1370-02-.05, continued)

- (c) An applicant shall pay the nonrefundable application fee as provided in Rule 1370-02-.06 and submit the fee with the application.
  - (d) An applicant shall submit with his application a “passport” style photograph taken within the preceding twelve (12) months and attach it to the appropriate page of the application.
  - (e) An applicant shall submit with his application a certified photocopy of his birth certificate.
  - (f) An applicant shall disclose the circumstances surrounding any of the following:
    - 1. Conviction of any crime in any country, state, or municipality, except minor traffic violations.
    - 2. The denial of a license, certification, or registration or the previous or pending discipline of a license, certification, or registration by any other state or country.
  - (g) An applicant shall cause to be submitted to the Council's Administrative Office directly from the vendor identified in the Council's licensure application materials, the result of a criminal background check.
  - (h) The applicant shall direct the National Board for Certification in Hearing Instruments Sciences to submit evidence that he is currently certified by the NBC-HIS.
  - (i) The applicant shall direct the appropriate licensing Council in each state in which he holds a license to send an official statement which indicates that such license is in effect and in good standing.
  - (j) Only those persons who hold, at the time of application, a current unsuspended or unrevoked license from the state in which they are engaged in business may apply for licensure by reciprocity.
  - (k) If it is determined by the Council or the Board that an applicant does not meet the reciprocity requirements, he must file an application for licensure by examination.
- (4) Licensed Hearing Instrument Specialist by Reciprocity for Applicants without NBC-HIS Certification:
- (a) Applications will be accepted throughout the year and processed in the Council's Administrative Office.
  - (b) An applicant shall obtain a current application form from the Council's Administrative Office, respond truthfully and completely to every question or request for information contained in the form, and submit it along with all documentation and fees required by the form and this rule to the Council's Administrative Office. It is the intent of this rule that all steps necessary to accomplish the filing of the required documentation be completed prior to filing an application and that all documentation be filed simultaneously.
  - (c) It is the applicant's responsibility to provide evidence that he has fulfilled the educational requirements by instructing his college to submit an official transcript directly to the Council's Administrative Office. The transcript must carry the official seal of the school and reference the name under which the applicant has applied for licensure. If the name under which the transcript is issued differs from the applicant's

(Rule 1370-02-.05, continued)

current name, documentation must be submitted which supports such applicant's name change.

- (d) An applicant shall pay the nonrefundable application fee as provided in Rule 1370-02-.06 and submit the fee with the application.
  - (e) An applicant shall pay the examination fee, at the time of application, pursuant to Rule 1370-02-.06.
  - (f) Passage of required examination(s) pursuant to Rule 1370-02-.08 is a prerequisite to licensure by reciprocity.
  - (g) An applicant shall submit with his application a "passport" style photograph taken within the preceding twelve (12) months and attach it to the appropriate page of the application.
  - (h) An applicant shall submit with his application a certified photocopy of his birth certificate.
  - (i) An applicant shall disclose the circumstances surrounding any of the following:
    - 1. Conviction of any crime in any country, state, or municipality, except minor traffic violations.
    - 2. The denial of a license, certification, or registration or the previous or pending discipline of a license, certification, or registration by any other state or country.
  - (j) An applicant shall cause to be submitted to the Council's Administrative Office directly from the vendor identified in the Council's licensure application materials, the result of a criminal background check.
  - (k) An applicant must submit a copy of his current certificate or license with certificate or license number from the other state.
  - (l) An applicant must submit a copy of his renewal certificate with the expiration date and certificate number from the other state.
  - (m) The applicant shall direct the IHS to submit documentation that he has passed the written examination, pursuant to Rule 1370-02-.08.
  - (n) The applicant shall direct the appropriate licensing Council in each state in which he holds or has held a license to send an official statement which indicates that such license is in effect and in good standing and under what provision such license was issued (i.e., examination, reciprocity, grandfathering, etc.). Such documentation must specify that the written examination was proctored by a state board member, or their designee.
  - (o) Only those persons who hold, at the time of application, a current unsuspended or unrevoked license from the state in which they are engaged in business may apply for licensure by reciprocity.
  - (p) If it is determined by the Council or the Board that an applicant does not meet the reciprocity requirements, he must file an application for licensure by examination.
- (5) Apprentice Licensed Hearing Instrument Specialist.



(Rule 1370-02-.05, continued)

- (a) Applications will be accepted throughout the year and processed in the Council's Administrative Office.
- (b) An applicant shall obtain a current application form from the Council's Administrative Office, respond truthfully and completely to every question or request for information contained in the form, and submit it along with all documentation and fees required by the form and this rule to the Council's Administrative Office. It is the intent of this Rule that all steps necessary to accomplish the filing of the required documentation be completed prior to filing an application and that all documentation be filed simultaneously.
- (c) It is the applicant's responsibility to:
  - 1. Provide evidence that he has fulfilled the educational requirements by instructing his college to submit an official transcript to the Council's Administrative Office. The transcript must carry the official seal of the school and reference the name under which the applicant has applied for licensure. If the name under which the transcript is issued differs from the applicant's current name, documentation must be submitted which supports such applicant's name change; or
  - 2. Direct the National Board for Certification in Hearing Instrument Sciences to submit evidence that he is currently certified by the NBC-HIS.
- (d) An applicant shall pay, at the time of application, the nonrefundable application fee provided in Rule 1370-02-.06.
- (e) An applicant shall submit with his application a "passport" style photograph taken within the preceding twelve (12) months and attach it to the appropriate page of the application.
- (f) An applicant shall submit with his application, a certified photocopy of his birth certificate.
- (g) An applicant shall provide evidence, in the form of a letter from a sponsor, that he has obtained a sponsor to provide training, direct supervision, and an outline of training.
- (h) An applicant shall disclose the circumstances surrounding any of the following:
  - 1. Conviction of any crime in any country, state, or municipality, except minor traffic violations.
  - 2. The denial of a license, certification, or registration or the previous or pending discipline of a license, certification, or registration by any other state or country.
- (i) An applicant shall cause to be submitted to the Council's Administrative Office directly from the vendor identified in the Council's licensure application materials, the result of a criminal background check.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 63-17-105, 63-17-203, 63-17-207, and 63-17-208 and 2019 Public Chapter 323. **Administrative History:** Original rule filed November 22, 1978; effective January 8, 1979. Repeal and new rule filed September 24, 1987; effective November 8, 1987. Amendment filed March 1, 1990; effective April 15, 1990. Amendment filed January 24, 1991; effective March 10, 1991. Repeal and new rule filed April 29, 1992; effective June 13, 1992. Repeal and new rule renumbered from 0760-01-.05 filed December 28, 1999; effective March 12, 2000. Amendment filed February 10, 2000; effective April 25, 2000. Amendment filed March 17, 2006; effective May 31, 2006. Amendment filed June

(Rule 1370-02-.05, continued)

29, 2007; effective September 12, 2007. Amendments filed May 14, 2018; effective August 12, 2018. Amendments filed March 8, 2022; effective June 6, 2022.

**1370-02-.06 FEES.**

- (1) The fees authorized by the Tennessee Council for Hearing Instrument Specialists Act (T.C.A. §§ 63-17-201, et seq.) and other applicable statutes are established as follows:
  - (a) Application Fee - A nonrefundable fee to be paid by all applicants. It must be paid to the Council each time an application for licensure is filed, or a license is reactivated. This fee includes the Initial License Fee and /or the fee for Licensure by Reciprocity.
  - (b) Council Operations Fee - A nonrefundable fee to be paid by each hearing instrument specialist. This fee shall be paid by the last day in the licensee's birth month in the non-renewal year. This fee shall be effective for two (2) renewal cycles for each licensee. This fee shall expire at midnight on December 31, 2016.
  - (c) Duplicate License or Duplicate Certificate Fee - A nonrefundable fee to be paid when an individual requests a replacement for a lost/destroyed "artistically designed" license or a lost/destroyed renewal certificate.
  - (d) Examination (and Retake) Fee - A fee to be paid prior to each time an examination, or any component of an examination, is taken or retaken. The Examination (and Retake) Fee is nonrefundable if the examination, or any component of an examination, is taken or retaken. If the Examination (and Retake) Fee is paid but the examination or examination component(s) are not taken or retaken, the Examination (and Retake) Fee, except for twenty-five dollars (\$25.00), shall be refunded if the applicant submits a refund request within thirty (30) days from when the examination that the applicant was scheduled to take was administered.
  - (e) Late Renewal Fee - a nonrefundable fee to be paid when licensee fails to timely renew his license. This is an additional fee which must be submitted along with the Licensure Renewal Fee (Biennial) and the State Regulatory Fee.
  - (f) Licensure Renewal Fee (Biennial) - A nonrefundable fee to be paid by all license and certificate holders prior to issuance of the "artistically designed" license on a biennial renewal basis. This fee also applies to individuals who reactivate a retired or lapsed certificate or license.
  - (g) State Regulatory Fee - To be paid by all individuals at the time of application and with all renewal applications.
  - (h) Written Endorsement/Verification Fee - A nonrefundable fee paid for each certification, verification, or endorsement of a licensee's record for any purpose.
- (2) All fees may be paid in person, by mail or electronically by cash, check, money order, or by credit and/or debit cards accepted by the Division. If the fees are paid by certified, personal or corporate check they must be drawn against an account in a United States Bank, and made payable to the Council for Licensing Hearing Instrument Specialists.
- (3) Fee Schedule
  - (a) Hearing Instrument Specialists

(Rule 1370-02-.06, continued)

Type Fee	Amount
1. Application Fee .....	\$ 450.00
2. Duplicate License or Duplicate Certificate Fee.....	\$ 25.00
3. Written Endorsement/Verification Fee .....	\$ 20.00
4. Examination Fees	
(i) Practical - 1st attempt .....	\$ 175.00
(ii) Practical - Retake .....	\$ 125.00
5. Late Renewal Fee.....	\$ 150.00
6. Licensure Renewal Fee (Biennial).....	\$ 700.00
7. State Regulatory Fee (Biennial)	\$ 10.00
8. Council Operations Fee .....	\$ 300.00
(Paid in the non-renewal year)	
(b) Apprentice Hearing Instrument Specialists	
Type Fee	Amount
1. Application Fee .....	\$ 125.00
2. State Regulatory Fee .....	\$ 10.00

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 63-17-105, 63-17-201, 63-17-203, 63-17-210, and 63-17-215.  
**Administrative History:** Original rule filed November 22, 1978; effective January 8, 1979. Repeal and new rule filed September 24, 1987; effective November 8, 1987. Repeal and new rule filed April 29, 1992; effective June 13, 1992. Repeal and new rule renumbered from 0760-01-.06 filed December 28, 1999; effective March 12, 2000. Amendment filed February 10, 2000; effective April 25, 2000. Amendment filed April 17, 2003; effective July 1, 2003. Amendment filed June 29, 2007; effective September 12, 2007. Amendments filed April 29, 2011; to have been effective July 28, 2011. However, the Government Operations Committee filed a 60-day stay; new effective date September 25, 2011. Withdrawal of amendments 1370-02-.06(3)(a)1. through 7. and 1370-02-.06(3)(b) filed September 22, 2011; effective September 25, 2011. Amendments 1370-02-.06(3)(a)1. through 8. and 1370-02-.06(3)(b) filed April 29, 2011; to have been effective July 28, 2011. However, the Government Operations Committee filed a 60-day stay; new effective date September 25, 2011. Amendment filed June 18, 2015; effective September 16, 2015. Amendments filed May 14, 2018; effective August 12, 2018.

**1370-02-.07 APPLICATION REVIEW, APPROVAL, DENIAL AND INTERVIEWS.**

- (1) Application for licensure will be accepted throughout the year and processed in the Council's Administrative Office.
- (2) Review of all applications to determine whether or not the application file is complete may be delegated to the Council's Unit Director, provided that approval of all applications is made and ratified by the Council and Board.
- (3) A temporary authorization to practice may be issued to an applicant pursuant to T.C.A. § 63-1-142.

(Rule 1370-02-.07, continued)

- (4) If an application is incomplete when received in the Council's Administrative Office, or the reviewing Council member or Council Consultant and a Board member or the Board's Consultant determine additional information is required from an applicant before an initial determination can be made, the applicant shall be notified and the necessary information requested by the Administrative Office. The applicant shall cause the requested information to be received in the Council's Administrative Office on or before the thirtieth (30th) day after receipt of the notification.
  - (a) Such notification shall be sent by certified mail, return receipt requested, from the Council's Administrative Office.
  - (b) If the requested information is not received within the thirty (30) day period, the application file shall be closed and the applicant notified that the Council will not consider issuance of a license until a new application is received pursuant to the rules governing that process, including another payment of all applicable fees.
  - (c) At no time may an applicant sit for the practical examination until the Council's Consultant/Board Consultant has made the initial determination that the documentation in the application file has been accepted.
- (5) If a completed application file has been denied by the Council or the Board, the action shall become final and the following shall occur:
  - (a) A notification of the denial shall be sent to the applicant by the Council's Administrative Office by certified mail, return receipt requested. Specific reasons for the denial will be stated, such as incomplete information, unofficial records, failure of examination, and other matters judged insufficient for licensure, and such notification shall contain all the specific statutory and rule authorities for the denial.
  - (b) The notification, when appropriate, shall also contain a statement of the applicant's right to request a contested case hearing under the Tennessee Administrative Procedures Act (T.C.A. §§ 4-5-201, et seq.) to contest the denial and the procedure necessary to accomplish that action.
- (6) If the Council or Board finds that it has erred in the issuance of a license, the Council will give written notice by certified mail, return receipt requested, of intent to revoke the license. The notice will allow the applicant the opportunity to meet the requirements of licensure within thirty (30) days from the date of receipt of the notification. If the applicant does not concur with the stated reason and the intent to revoke the license, the applicant shall have the right to proceed according to Rule 1370-02-.07(5)(b).
- (7) If all requirements for licensure are not completed within twelve (12) months from the date of receipt of the application, written notification will be mailed to the applicant, and the application file will be closed. Once the file has been closed, no further Council action will take place until a new application is submitted. Failure to complete all forms, provide requested information, submit all fees, take or retake required examinations within the specified time frame will be just cause for the application file to be closed. This action may be made by the Council's Unit Director.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 4-5-301, 63-1-142, 63-15-103, 63-15-111, 63-17-105, 63-17-203, 63-17-205, 63-17-211, and 63-17-213. **Administrative History:** Original rule filed November 22, 1978; effective January 8, 1979. Repeal and new rule filed September 24, 1987; effective November 8, 1987. Repeal and new rule filed April 29, 1992; effective June 13, 1992. Repeal and new rule renumbered from 0760-01-.07 filed December 28, 1999; effective March 12, 2000. Amendment filed April 17, 2003; effective July 1, 2003.

**1370-02-.08 EXAMINATIONS.** All applicants for licensure as a hearing instrument specialist or for registration as an apprentice hearing instrument specialist must successfully complete the applicable examinations described in this rule. All other requirements for licensure or registration must be successfully completed before the Council will approve an applicant to take the examinations.

(1) Hearing Instrument Specialist

(a) Written Examination - The Council adopts as its written licensure examination the International Hearing Society's examination or its successor examination.

1. The passing score shall be the overall passing score as determined by the International Hearing Society.
2. If the applicant is currently licensed or has been licensed in another state as a hearing instrument specialist, the applicant shall direct the National Board for Certification in Hearing Instruments Sciences to submit evidence that he is currently certified by the NBC-HIS or the applicant shall direct the IHS to submit documentation that he has passed the written examination as provided in this rule.

(b) Practical Skills Examination - Successful completion of the written examination requirements must be accomplished before the Council will approve an applicant to take the practical skills examination. The Council adopts as its practical skills examination the International Hearing Society's practical skills examination or its successor examination.

1. All applicants will be required to demonstrate knowledge in audiogram interpretation, advanced audiometric techniques, and earmold impression technique.
2. Applicants may be required to bring the following to the practical skills examination:
  - (i) An audiometer, audiogram forms, and proof of the audiometer's current calibration; and
  - (ii) An otoscope; and
  - (iii) All materials needed to make an ear impression; and
  - (iv) Equipment needed to program, troubleshoot, or modify hearing instruments and ear molds; and
  - (v) Red and blue ink pens; and
  - (vi) An individual to be the subject for the ear impression and the hearing test.
3. The passing score shall be the overall passing score as determined by the International Hearing Society.
4. Practical skills examination proctors. The Council, or its designated representatives, shall administer the practical skills examination.
  - (i) To be considered as a potential proctor, the following requirements must be met:

(Rule 1370-02-.08, continued)

- (I) Hold an active and unencumbered license as a hearing instrument specialist in Tennessee;
    - (II) Hold current National Board for Certification in Hearing Instrument Sciences (NBC-HIS) certification;
    - (III) Observe at least one (1) practical skills examination;
    - (IV) Submit an application to the Council, which can be found on the Council's website; and
    - (V) Must be impartial.
  - (ii) A proctor:
    - (I) Is required to travel to the Council's Administrative Office in Nashville, Tennessee on scheduled testing dates which are set in advance;
    - (II) Shall receive compensation in the amount of one hundred dollars (\$100.00);
    - (III) May be eligible for reimbursement of travel expenses, or a portion thereof; and
  - (iii) Neither this rule, nor the completion of these requirements, ensures that an applicant will be selected to serve as a proctor. This rule serves to ensure that prequalified proctors are available when necessary in order for the Council to administer the practical skills examination pursuant to T.C.A. §§ 63-17-203 and 63-17-209.
  - (iv) The Council shall take any actions necessary to insure impartiality.
  - (v) Any Council member administering the practical skills examination may elect to recuse himself from administering the practical skills examination to a particular applicant.
  - (vi) Any applicant taking the practical skills examination may, upon written request, have a Council member recused from administering such applicant's practical skills examination. The written request of the applicant should be received in the Council's Administrative Office at least ten (10) days prior to the scheduled examination.
- (c) Jurisprudence Examination
- 1. Applicants will be tested on their knowledge of the HIS statute, Title 63, Chapter 17 of the T.C.A., and Council rules and regulations.
  - 2. The passing score shall be a minimum of seventy percent (70%).
- (2) Fees - Initial and retake examination fees, pursuant to Rule 1370-02-.06, must be received in the Council's Administrative Office prior to the examination date, except as provided in Paragraph (4).
- (3) Examination Retakes and Limitations

(Rule 1370-02-.08, continued)

- (a) An applicant who fails any section of either the written examination or the practical skills examination will be retested in the section(s) failed only.
  - (b) On or before the thirtieth (30th) day from receipt of the examination results, the applicant shall submit to the Council his retake fee. Failure to do so will result in the application file being closed. If closed, no further Council action will take place until a new application is received pursuant to the rules governing the application process, including payment of all fees.
  - (c) After three (3) failures of the written or practical skills examinations, the applicant must wait for twelve (12) months before sitting for a retake. During these twelve (12) months, the applicant must receive training assistance from a Tennessee licensed hearing instrument specialist. Within ninety (90) days of the applicant's notification of the third (3rd) examination failure, the applicant must notify the Council in writing of the name of the Tennessee licensed hearing instrument specialist who will provide the training.
- (4) Examination Proctors
- (a) The Council, or its designated representatives, shall administer all examinations. The Council shall take any actions necessary to insure impartiality.
  - (b) Any Council member administering the practical skills examination may elect to recuse himself from administering the practical skills examination to a particular applicant.
  - (c) Any applicant taking the practical skills examination may, upon written request, have a Council member recused from administering such applicant's practical skills examination. The written request of the applicant should be received in the Council's Administrative Office at least ten (10) days prior to the scheduled examination.
- (5) Examination Dates and Sites - The location of the examinations shall be designated in advance by the Council and such shall be held not less than annually at such time and place as specified by the Council, if there are applicants eligible for the examinations. Examinations shall be given at other times as, in the opinion of the Council, the number of applicants warrants.
- (6) Examination Results - Examination results will be mailed to the applicant. Results are not provided by telephone, facsimile, or e-mail.

**Authority:** T.C.A. §§ 63-17-105, 63-17-201, 63-17-203, 63-17-208, 63-17-209, and 63-17-210.

**Administrative History:** Original rule filed November 22, 1978; effective January 8, 1979. Repeal and new rule filed September 24, 1987; effective November 8, 1987. Repeal and new rule filed April 29, 1992; effective June 13, 1992. Repeal and new rule renumbered from 0760-01-.08 filed December 28, 1999; effective March 12, 2000. Repeal and new rule filed April 17, 2003; effective July 1, 2003. Amendment filed July 10, 2006; effective September 23, 2006. Amendments filed May 14, 2018; effective August 12, 2018. Amendments filed March 26, 2024; effective June 24, 2024.

#### **1370-02-.09 RENEWAL OF LICENSE.**

- (1) Renewal Application.
- (a) The due date for license renewal is the expiration date indicated on the licensee's renewal certificate.
  - (b) Methods of Renewal

(Rule 1370-02-.09, continued)

1. Internet Renewals - Individuals may apply for renewal and pay the necessary fees via the Internet. The application to renew can be accessed at:

<https://apps.tn.gov/hlrs/>

2. Paper Renewals - For individuals who have not renewed their license online via the Internet, a renewal application form will be mailed to each individual licensed by the Board to the last address provided to the Board. Failure to receive such notification does not relieve the licensee from the responsibility of meeting all requirements for renewal.

- (c) To be eligible for license renewal, an individual must submit to the Council's Administrative Office on or before the due date for renewal all of the following:

1. A completed and signed renewal application form;
2. The renewal and state regulatory fees as provided in Rule 1370-02-.06;

- (d) Licensees who fail to comply with the renewal rules or notification received by them concerning failure to timely renew shall have their licenses processed pursuant to Rule 1200-10-01-.10.

(2) Reinstatement of an Expired License.

- (a) Licensees who fail to comply with the renewal rules or notification received by them concerning failure to timely renew shall have their licensure processed pursuant to Rule 1200-10-01-.10.

- (b) Reinstatement of a license that has expired may be accomplished upon meeting the following conditions:

1. Payment of renewal fee and state regulatory fee, pursuant to Rule 1370-02-.06; and
2. Payment of the Late Renewal fee, pursuant to Rule 1370-02-.06; and
3. Provide documentation of successfully completing continuing education requirements for every year the license was expired, pursuant to Rule 1370-02-.12; and
4. Provide calibration of equipment certificates for each audiometer used at his/her place of business for every year the license was expired, pursuant to Rule 1370-02-.12.; and

- (c) License reinstatement applications hereunder shall be treated as license applications, and review and decisions shall be governed by Rule 1370-02-.07.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 63-1-107, 63-17-105, 63-17-203, 63-17-214, and 63-17-216.  
**Administrative History:** Original rule filed November 22, 1978; effective January 8, 1979. Repeal and new rule filed September 24, 1987; effective November 8, 1987. Repeal and new rule filed April 29, 1992; effective June 13, 1992. Repeal and new rule renumbered from 0760-01-.09 filed December 28, 1999; effective March 12, 2000. Amendment filed October 28, 2002; effective January 11, 2003. Amendment filed June 29, 2007; effective September 12, 2007. Amendments filed May 14, 2018; effective August 12, 2018.



**1370-02-.10 SUPERVISION.** Direct Supervision as used in T.C.A. § 63-17-206(b) is defined so as to require a sponsoring licensee to direct, review, and approve each act of service performed by an apprentice licensee in connection with the practice of dispensing and/or fitting hearing instruments, but does not require the constant actual physical presence of the sponsoring licensee.

- (1) A sponsor must review and co-sign all hearing tests and ear mold impressions given by an apprentice.
- (2) A sponsor must review and co-sign all bills of sale prepared by an apprentice.
- (3) A sponsor must keep a record of hearing tests and bills of sale prepared by an apprentice.
- (4) These records must be at all times during normal business hours available for on-site inspection(s) by a Council member or designee during the first ninety (90) days of the apprenticeship period.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 63-15-103, 63-15-106, 63-15-108, 63-15-114, 63-17-203, 63-17-206, 63-17-208, and 63-17-214. **Administrative History:** Original rule filed November 22, 1978; effective January 8, 1979. Repeal and new rule filed September 24, 1987; effective November 8, 1987. Repeal and new rule filed April 29, 1992; effective June 13, 1992. Repeal and new rule renumbered from 0760-01-.10 filed December 28, 1999; effective March 12, 2000.

#### **1370-02-.11 RETIREMENT AND REACTIVATION OF LICENSE**

- (1) A licensee who does not plan to practice in Tennessee and who therefore does not intend to use the title "licensed hearing instrument specialist" may apply to convert an active license to inactive ("retired") status. An individual who holds a retired license will not be required to renew their license or to satisfy the renewal requirements.
- (2) A person who holds an active license may apply for licensure retirement in the following manner:
  - (a) Request in writing from the Council's Administrative Office an Affidavit of Retirement Form; and
  - (b) Complete and submit the Affidavit affirming that, while in retired status, the licensee will not practice or in any way indicate or imply that he holds an active Tennessee license or use within the State of Tennessee any words, letters, titles, or figures which indicate or imply that he is a licensed hearing instrument specialist.
- (3) A person who holds a retired license may apply to reactivate his license in the following manner:
  - (a) Submit a written request to the Council's Administrative Office for licensure reactivation;
  - (b) Pay the current licensure renewal fee and state regulatory fee as provided in Rule 1370-02-.06 and, if retirement was pursuant to Rule 1370-02-.09 and reactivation was requested prior to the expiration of one (1) year from the date of retirement, the Council will require payment of the late renewal fee, licensure renewal fees, and state regulatory fees as provided in Rule 1370-02-.06; and
  - (c) Comply with the continuing education provision of Rule 1370-02-.12 applicable to reactivation of retired license.

(Rule 1370-02-.11, continued)

- (4) Upon receipt of the request, renewal application, fees, and continuing education documentation, the Council shall consider the renewal application.
- (5) License reactivation applications hereunder shall be treated as license applications, and review and decisions shall be governed by Rule 1370-02-.05, including payment of the application fee.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 63-15-103, 63-15-113, 63-17-203, and 63-17-213.  
**Administrative History:** Original rule filed November 22, 1978; effective January 8, 1979. New rule filed September 24, 1987; effective November 8, 1987. Repeal and new rule filed April 29, 1992; effective June 13, 1992. Repeal and new rule renumbered from 0760-01-.11 filed December 28, 1999; effective March 12, 2000.

#### **1370-02-.12 CONTINUING EDUCATION, CALIBRATION CERTIFICATES, AND BILLS OF SALE.**

(1) Basic Requirements:

(a) Continuing Education

1. Each licensee registered with the Council is required to successfully complete twenty (20) hours of continuing education during the two (2) calendar years (January 1 - December 31) that precede the licensure renewal year.
2. Two (2) hours of the twenty (20) hour requirement shall pertain to Tennessee statutes and rules concerning hearing instrument specialists.
3. For new licensees, submitting proof of successful completion of the written and practical skills examinations, pursuant to Rule 1370-02-.08, shall be considered proof of sufficient preparatory education to constitute continuing education credit for the first calendar year of licensure.

(b) Calibration Certificates - Each licensee registered with the Council is required to retain calibration of equipment certificates for each audiometer used at his/her place of business during the calendar year.

(c) Bills of Sale - Each licensee registered with the Council is required to retain copies of bills of sale for each hearing aid sold at his/her place of business during the calendar year.

(2) Documentation of Compliance:

(a) Each licensee must retain documentation of completion of all requirements of this rule. This documentation must be retained for a period of four (4) years from the end of the calendar year in which the requirements were completed. This documentation must be produced for inspection and verification, if requested in writing by the Council during its verification process.

(b) Acceptable continuing education documentation:

1. Certificates or original letters from course providers verifying the licensee's attendance at continuing education program(s); or
2. An original letter on official stationery from IHS verifying continuing education, specifying date, continuing education hours, program title, licensee's name, and license number.

(Rule 1370-02-.12, continued)

- (c) The individual must, within thirty (30) days of a request from the Council, provide documentation of successfully completing this rule's requirements.
- (3) Continuing Education Course Approval - Courses to be offered for credit toward the continuing education requirement must, unless otherwise provided, receive prior approval from the Council. Unless otherwise provided, all courses shall be offered within Tennessee.
  - (a) Course approval procedures
    - 1. Pre-approved course providers - Continuing education courses which pertain to hearing instrument specialists shall be considered approved if provided or sanctioned by the following entities:
      - (i) International Hearing Society;
      - (ii) National Board for Certification-Hearing Instruments Specialists;
      - (iii) National Institute for Hearing Instruments Studies;
      - (iv) Any state professional association affiliated with the associations listed in subparts (i) through (iii);
      - (v) Any state regulatory agency for hearing instrument specialists in the United States.
    - 2. Course approval procedure for other course providers
      - (i) Unless pre-approved as provided in part (3)(a)1., the course provider must have delivered to the Council's Administrative Office at least thirty (30) days prior to a regularly scheduled meeting of the Council that precedes the course, documentation which includes all of the following items which must be resubmitted if substantive changes are made after receipt of approval from the Council:
        - (I) Course description or outline;
        - (II) Names of all lecturers;
        - (III) Brief resume of all lecturers;
        - (IV) Number of hours of educational credit requested;
        - (V) Date of course;
        - (VI) Copies of materials to be utilized in the course; and
        - (VII) How verification of attendance is to be documented.
      - (ii) Notwithstanding the provisions of the introductory language of this paragraph, any clinic, workshop, seminar or lecture at national, regional, state and local meetings of hearing instrument specialists will be recognized for continuing education credit by the Council if
        - (I) The course provider has complied with the provisions of subpart (3)(a)2.(i); or

(Rule 1370-02-.12, continued)

- (II) The course provider is exempt from needing prior approval as provided in part (3)(a)1.
  - (iii) Notwithstanding the provisions of the introductory language of this paragraph, out-of-state continuing education providers may seek course approval if they are a hearing instrument specialist regulatory agency or association from a state that borders Tennessee; and
    - (I) The course provider has complied with the provisions of subpart (3)(a)2.(i); or
    - (II) The course provider is exempt from needing prior approval as provided in part (3)(a)1.
- 3. Course approval procedure for individual licensees
  - (i) Any licensee may seek approval to receive credit for successfully completing continuing education courses by delivering to the Council's Administrative Office at least thirty (30) days prior to a regularly scheduled meeting of the Council that precedes the course, everything required in items (3)(a)2.(i)(I) through (VII) which must be resubmitted if substantive changes are made after receipt of approval from the Council; and
  - (ii) To retain course approval, the licensee must submit a course evaluation form, supplied by the Council, to the Council's Administrative Office within thirty (30) days after successfully completing the course.
- 4. Course approval for attendance at Council meetings
  - (i) Licensees may receive credit for one (1) hour of continuing education required in part (1)(a)2. for each Council meeting that they attend in entirety.
  - (ii) Council members may receive credit for one (1) hour of continuing education required in part (1)(a)2. for each Council meeting that they attend in entirety.
  - (iii) No more than two (2) hours of continuing education credit shall be awarded for attendance at Council meetings during any two (2) calendar year period.
- (b) Continuing education credit will not be allowed for the following:
  - 1. Regular work activities, administrative staff meetings, case staffing/reporting, etc.
  - 2. Membership in, holding office in, or participation on boards or committees, business meetings of professional organizations, or banquet speeches, except as provided in part (3)(a)4.
  - 3. Independent unstructured or self-structured learning.
  - 4. Training specifically related to policies and procedures of an agency.
  - 5. Non-hearing instrument specialist dispensing content courses in excess of four (4) hours - examples: computer, finance or business management.

(Rule 1370-02-.12, continued)

6. Courses provided by an individual hearing instrument manufacturer in excess of ten (10) hours during each renewal cycle.
- (c) Continuing education hours that are clearly not hearing instrument specialist related will be unacceptable.
- (4) Continuing Education for Reactivation or Reinstatement of Retired, Revoked, or Expired Licensure:
  - (a) Reactivation of a Retired License.
    1. An individual whose license has been retired for two (2) years or less will be required to fulfill continuing education requirements as outlined in this Rule as a prerequisite to reactivation. Those hours will be considered replacement hours and cannot be counted during the next licensure renewal period.
    2. An individual who requests reactivation of a license which has been retired for more than two (2) years must submit, along with the reactivation request, verification which indicates the attendance and completion of twenty (20) hours of continuing education. The continuing education hours must have been started and successfully completed within the two (2) years immediately preceding the date of the requested reactivation.
  - (b) Reactivation of Revoked Licensure.
    1. No person whose license has been revoked for failure to comply with continuing education may have his/her license reactivated without complying with these requirements. Continuing education requirements will accumulate at the same rate as for those licenses which are active. The required clock hours of continuing education must have been begun and successfully completed before the date of reactivation.
    2. Notwithstanding the provisions of part (4)(b)1., on written request and approval by the Council, a licensee has the option to take and pass the written and practical sections of the examination given by the Council in lieu of fulfilling the continuing education requirement. The current examination fee, pursuant to Rule 1370-02-.06, will be applicable.
  - (c) Reinstatement of Expired Licensure - No person whose license has expired may have his/her license reinstated without submitting evidence of continuing education. The continuing education hours documented at the time of reinstatement must equal the hours required, had the license remained in an active status, and must have been begun and successfully completed before the date of reinstatement.
  - (d) Continuing education hours obtained as a prerequisite for reactivating or reinstating a license may not be counted toward the calendar year requirement.
- (5) Violations:
  - (a) Any licensee who falsely certifies attendance and completion of the required hours of continuing education requirements, or who does not or can not adequately substantiate completed continuing education hours with the required documentation, may be subject to disciplinary action.

(Rule 1370-02-.12, continued)

- (b) Prior to the institution of any disciplinary proceedings, a letter shall be issued to the last known address of the individual stating the facts or conduct which warrant the intended action.
- (c) The licensee has thirty (30) days from the date of notification to show compliance with all lawful requirements for the retention of the license.
- (d) Any licensee who fails to show compliance with the required continuing education hours in response to the notice contemplated by subparagraph (5)(b) above may be subject to disciplinary action.
- (e) Continuing education hours obtained as a result of compliance with the terms of a Council Order in any disciplinary action shall not be credited toward the continuing education hours required to be obtained in any renewal period.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 63-17-105, 63-17-203, and 63-17-214. **Administrative History:** Original rule filed December 2, 1980; effective June 16, 1981. Repeal filed September 24, 1987; effective December 8, 1987. Repeal and new rule filed April 29, 1992; effective June 13, 1992. Repeal and new rule renumbered from 0760-01-.12 filed December 28, 1999; effective March 12, 2000. Amendment filed October 28, 2002; effective January 11, 2003. Amendment filed October 12, 2004; effective December 26, 2004. Amendment filed October 31, 2005; effective January 14, 2006. Amendment filed July 10, 2006; effective September 23, 2006. Amendment filed January 29, 2013; effective April 29, 2013.

**1370-02-.13 UNETHICAL CONDUCT.** The Council and the Board have the authority to deny, revoke or suspend for a period of time, or assess by monetary fine any person holding a license to practice as a hearing instrument specialist. "Unethical Conduct" shall include, but is not limited to, the following offenses:

- (1) Violation of laws regarding the fitting and dispensing of hearing instruments in any other state by a person licensed by this Council, while he is visiting or residing in such other state, shall be considered as unethical conduct by the Council.
- (2) A hearing aid product or instrument may be guaranteed against mechanical or electronic defects or poor workmanship, but the degree of help from the use of or the results obtained in the wearing of a hearing aid are dependent upon uncontrollable factors, including the proper use or operation of the device. Therefore, any guarantee, warranty or representation expressed or implied as to the degree or amount of help or improvement shall be considered deceptive or misleading.
- (3) Failure of a license holder to abide by the terms of any contract or agreement concerning the sale or dispensing of hearing instruments.
- (4) Engaging in unfair or deceptive acts specifically prohibited by T.C.A. § 47-18-104(b) of the Tennessee Consumer Protection Act of 1977, while engaging in the business enterprise which is the practice of dispensing and fitting hearing instruments.
- (5) The obtaining of any fee or the making of any sale by fraud or misrepresentation.
- (6) Using, causing, or promoting the use of any advertising material, promotional literature, testimonial, guarantee, warranty, label, brand, insignia, or any other representation, however disseminated or published, which is misleading, deceptive or untruthful.
- (7) Advertising a particular model, type or kind of hearing aid for sale, when purchasers, responding to the advertisement cannot purchase or are dissuaded from purchasing the advertised model, type, or kind where it is established that the purpose of the advertisement is to obtain prospects for the sale of a different model, type, or kind than that advertised.

(Rule 1370-02-.13, continued)

- (8) Representing that the services or advice of a person licensed to practice medicine will be used or made available in the selection, fitting, adjustment, maintenance, or repair of hearing instruments when it is not true, or using the word “doctor” or like words, abbreviations or symbols which tend to denote the medical profession when such use is not accurate.
- (9) Habitual intoxication or personal misuse of any drugs or the use of intoxicating liquors or stimulants in such manner as to adversely affect the person's ability to practice.
- (10) Permitting another to use his license.
- (11) To defame competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or by other false representations, or falsely to disparage the products of competitors in any respect, or their business methods, selling prices, values, credit terms, policies, or services.
- (12) To exhibit competitive products in his shop or in his advertising in such manner as to falsely discredit them or to represent falsely that competitors are unreliable.
- (13) To quote prices of competitive hearing instruments or devices without disclosing that they are not the current prices or to show, demonstrate, or represent competitive models as being current models when such is not the fact.
- (14) To imitate or simulate the trademarks, trade names, brands, or labels of competitors, with the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers.
- (15) To use in advertising the name, model name, or trademark of a particular manufacturer of hearing instruments in such manner as to imply a relationship with the manufacturer which does not exist or otherwise to mislead or deceive purchasers or prospective purchasers.
- (16) To use any trade name, corporate name, trademark, or other trade designations which have the capacity and tendency or effect of misleading or deceiving purchasers as to the name, nature, or origin of any product of the industry, or of any material used therein, or which is false, deceptive, or misleading in any other material respect.
- (17) No licensee shall allow an apprentice, agent, servant, employee, or other representative who does not hold a current or unsuspended license to advertise or otherwise make representations to the public that he offers services included in the practice of dispensing and fitting hearing instruments as defined in T.C.A. § 63-17-201 or the rules and regulations of the Council.
- (18) Failure to comply with the continuing education requirement as set by the Council or falsely reporting CE hours attended.
- (19) Violation of any rule or statute of the Council.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 63-1-116, 63-1-134, 63-15-117, 63-15-120, 63-17-203, 63-17-219, and 63-17-222 and Public Chapter 389, Acts of 1989. **Administrative History:** Original rule filed January 9, 1991; effective February 23, 1991. Repeal and new rule filed April 29, 1992; effective June 13, 1992. Repeal and new rule renumbered from 0760-01-.13 filed December 28, 1999; effective March 12, 2000.

**1370-02-.14 APPRENTICESHIP TRAINING PROGRAM.**

- (1) Any person wishing to practice the profession of hearing instrument specialist dispensing and who intends to fulfill the requirements via the apprenticeship provision shall register with the Council pursuant to Rule 1370-02-.05.
- (2) Apprenticeship training must be supervised by a Tennessee licensed hearing instrument specialist who possesses a current, unsuspended and unrevoked Tennessee license and who dispenses on the premises.
- (3) Changes in the information provided in the original apprentice application shall be reported to the Council in writing within ten (10) working days of such change.
- (4) Pursuant to T.C.A. § 63-17-208(d) the period of apprenticeship training must be no longer than one (1) calendar year from date of issuance of the apprenticeship license. The apprentice license cannot be extended or renewed.
- (5) Sponsor Supervision
  - (a) A licensed HIS may supervise no more than two (2) apprentices concurrently.
  - (b) The apprentice shall function under the direct supervision, as provided in Rule 1370-02-.10, of the sponsoring licensed HIS for a period of at least three (3) months after the date of issuance of the apprentice license. During the three (3) month period, the sponsoring HIS must make the final selection and fitting of the hearing aid.
  - (c) At no time may an apprenticeship continue the apprentice training program without the sponsorship of a licensed HIS and such sponsorship being recorded in writing with the Council's Administrative Office.
  - (d) An apprentice license shall not be issued unless the applicant shows to the satisfaction of the Council that he/she will be supervised and trained by a person who holds a valid Tennessee HIS license.
  - (e) Prior to upgrading by an apprentice to a licensed hearing instrument specialist, he must show proof of having obtained sixty (60) classroom hours of course work approved by the National Institute for Hearing Instrument Studies.
  - (f) Violation of or departure from any rule set forth by apprenticeship will be grounds for disciplinary action and/or civil penalties pursuant to Rules 1370-02-.13 and .15.
- (6) HIS licensure.

Ninety (90) days after an apprentice license is issued, an individual so licensed may make application to the Council to upgrade to HIS licensure status and to take the written and practicum examinations pursuant to Rule 1370-02-.05(1) and 1370-02-.08(1).

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 63-15-103, 63-15-109 through 63-15-111, 63-17-105, 63-17-203, 63-17-206, 63-17-208, 63-17-209, 63-17-210, and 63-17-211. **Administrative History:** Original rule filed January 9, 1991; effective February 23, 1991. Repeal and new rule filed April 29, 1992; effective June 13, 1992. Repeal and new rule renumbered from 0760-01-.14 filed December 28, 1999; effective March 12, 2000. Amendments filed May 14, 2018; effective August 12, 2018.



**1370-02-.15 DISCIPLINARY ACTIONS, CIVIL PENALTIES, ASSESSMENT OF COSTS AND SUBPOENAS.**

- (1) Upon a finding by the Council and the Board that a hearing instrument specialist or apprentice hearing instrument specialist has violated any provision of the T.C.A. §§ 63-17-201, et seq., or the rules promulgated thereto, the Council may impose any of the following actions separately or in any combination which is deemed appropriate to the offense.
  - (a) Reprimand - This is a written action issued to a hearing instrument specialist or apprentice hearing instrument specialist for one time and less severe violations. It is a formal disciplinary action.
  - (b) Probation - This is a formal disciplinary action which places a hearing instrument specialist or apprentice hearing instrument specialist on close scrutiny for a fixed period of time. This action may be combined with conditions which must be met before probation will be lifted and may restrict the individual's activities during the probationary period.
  - (c) Licensure Suspension - This is a formal disciplinary action which suspends an individual's right to practice for a fixed period of time. It contemplates the re-entry of the individual into the practice under the license previously issued.
  - (d) Licensure Revocation - This is a most severe form of disciplinary action which removes an individual from the practice of the profession and terminates the license previously issued. If revoked, it relegates the violator to the status he possessed prior to application for licensure. No application for licensure from a person whose license was revoked shall be considered prior to the expiration of at least one (1) year, unless otherwise stated in the Council's Revocation Order.
  - (e) Conditions - Any action deemed appropriate by the Council to be required of an individual disciplined during any period of probation or suspension or as a prerequisite to the lifting of probation or suspension.
  - (f) Civil Penalty - A monetary disciplinary action assessed by the Council and Board pursuant to paragraph (5) of this rule.
- (2) Once ordered, probation, suspension, assessment of a civil penalty, or any other condition of any type of disciplinary action may not be lifted unless and until the licensee petitions, pursuant to paragraph (3) of this rule, and appears before the Council after the period of initial probation, suspension, or other conditioning has run and all conditions placed on the probation, suspension, have been met, and after any civil penalties assessed have been paid.
- (3) Order of Compliance - This procedure is a necessary adjunct to previously issued disciplinary orders and is available only when a petitioner has completely complied with the provisions of a previously issued disciplinary order, including an unlicensed practice civil penalty order, and wishes or is required to obtain an order reflecting that compliance.
  - (a) The Council and Board will entertain petitions for an Order of Compliance as a supplement to a previously issued order upon strict compliance with the procedures set forth in subparagraph (b) in only the following two (2) circumstances:
    1. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reflecting that compliance;  
or

(Rule 1370-02-.15, continued)

2. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued lifting a previously ordered suspension or probation.

(b) Procedures

1. The petitioner shall submit a Petition for Order of Compliance, as contained in subparagraph (c), to the Council's Administrative Office that shall contain all of the following:
  - (i) A copy of the previously issued order; and
  - (ii) A statement of which provision of subparagraph (a) the petitioner is relying upon as a basis for the requested order; and
  - (iii) A copy of all documents that prove compliance with all the terms or conditions of the previously issued order. If proof of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed statements from every individual the petitioner intends to rely upon attesting, under oath, to the compliance. The Council's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
2. The Council authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
  - (i) Certify compliance and have the matter scheduled for presentation to the Council as an uncontested matter; or
  - (ii) Deny the petition, after consultation with legal staff, if compliance with all of the provisions of the previous order is not proven and notify the petitioner of what provisions remain to be fulfilled and/or what proof of compliance was either not sufficient or not submitted.
3. If the petition is presented to the Council and Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
4. If the Council and Board finds that the petitioner has complied with all the terms of the previous order an Order of Compliance shall be issued.
5. If the petition is denied either initially by staff or after presentation to the Council or Board and the petitioner believes compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and Rule 1200-10-01-.11.

(c) Form Petition

Petition for Order of Compliance  
Board of Communications Disorders and Sciences'  
Council for Licensing Hearing Instrument Specialists

Petitioner's Name: \_\_\_\_\_

(Rule 1370-02-.15, continued)

Petitioner's Mailing Address: \_\_\_\_\_

\_\_\_\_\_

Petitioner's E-Mail Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Attorney for Petitioner: \_\_\_\_\_

Attorney's Mailing Address: \_\_\_\_\_

\_\_\_\_\_

Attorney's E-Mail Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

The petitioner respectfully represents, as substantiated by the attached documentation, that all provisions of the attached disciplinary order have been complied with and I am respectfully requesting: (circle one)

1. An order issued reflecting that compliance; or
2. An order issued reflecting that compliance and lifting a previously ordered suspension or probation.

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show compliance is the testimony of any individual, including yourself, you must enclose signed statements from every individual you intend to rely upon attesting, under oath, to the compliance. The Council's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the \_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Petitioner's Signature

- (4) Order Modifications - This procedure is not intended to allow anyone under a previously issued disciplinary order, including an unlicensed practice civil penalty order, to modify any findings of fact, conclusions of law, or the reasons for the decision contained in the order. It is also not intended to allow a petition for a lesser disciplinary action, or civil penalty other than the one(s) previously ordered. All such provisions of Council and Board orders were subject to reconsideration and appeal under the provisions of the Uniform Administrative Procedures Act (T.C.A. §§ 4-5-301, et seq.). This procedure is not available as a substitute for reconsideration and/or appeal and is only available after all reconsideration and appeal rights have been either exhausted or not timely pursued. It is also not available for those who have accepted and been issued a reprimand.
- (a) The Council and Board will entertain petitions for modification of the disciplinary portion of previously issued orders upon strict compliance with the procedures set forth in subparagraph (b) only when the petitioner can prove that compliance with any one or more of the conditions or terms of the discipline previously ordered is impossible. For purposes of this rule the term "impossible" does not mean that compliance is inconvenient or impractical for personal, financial, scheduling or other reasons.

(Rule 1370-02-.15, continued)

## (b) Procedures

1. The petitioner shall submit a written and signed Petition for Order Modification on the form contained in subparagraph (c) to the Council's Administrative Office that shall contain all of the following:
  - (i) A copy of the previously issued order; and
  - (ii) A statement of why the petitioner believes it is impossible to comply with the order as issued; and
  - (iii) A copy of all documents that proves that compliance is impossible. If proof of impossibility of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed and notarized statements from every individual the petitioner intends to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
2. The Council authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
  - (i) Certify impossibility of compliance and forward the petition to the Office of General Counsel for presentation to the Council as an uncontested matter; or
  - (ii) Deny the petition, after consultation with legal staff, if impossibility of compliance with the provisions of the previous order is not proven and notify the petitioner of what proof of impossibility of compliance was either not sufficient or not submitted.
3. If the petition is presented to the Council and Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
4. If the petition is granted a new order shall be issued reflecting the modifications authorized by the Council and Board that it deemed appropriate and necessary in relation to the violations found in the previous order.
5. If the petition is denied either initially by staff or after presentation to the Council or Board and the petitioner believes impossibility of compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and Rule 1200-10-01-.11.

## (c) Form Petition

Petition for Order Modification  
Board of Communications Disorders and Sciences'  
Council for Licensing Hearing Instrument Specialists

Petitioner's Name: \_\_\_\_\_  
Petitioner's Mailing Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Rule 1370-02-.15, continued)

Petitioner's E-Mail Address: \_\_\_\_\_  
 Telephone Number: \_\_\_\_\_

Attorney for Petitioner: \_\_\_\_\_  
 Attorney's Mailing Address: \_\_\_\_\_

Attorney's E-Mail Address: \_\_\_\_\_  
 Telephone Number: \_\_\_\_\_

The petitioner respectfully represents that for the following reasons, as substantiated by the attached documentation, the identified provisions of the attached disciplinary order are impossible for me to comply with:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed and notarized statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the \_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
 Petitioner's Signature

(5) Civil Penalties

(a) Purpose - The purpose of this rule is to set a schedule designating the minimum and maximum civil penalties which may be assessed pursuant to T.C.A. § 63-1-134.

(b) Schedule of Civil Penalties

1. A Type A Civil Penalty may be imposed whenever the Council finds a person who is required to be licensed, certified, permitted, or authorized by the Council to be guilty of a willful and knowing violation of the Practice Act, or regulations pursuant thereto, to such an extent that there is, or is likely to be, an imminent, substantial threat to the health, safety and welfare of an individual patient or the public. For the purpose of this section, willfully and knowingly practicing hearing aid dispensing without a license or certification issued by the Council and Board is one of the violations of the Hearing Instrument Specialist Practice Act for which a Type A Civil Penalty is assessable.
2. A Type B Civil Penalty may be imposed whenever the Council finds the person required to be licensed, certified, permitted, or authorized by the Council is guilty of a violation of the Hearing Instrument Specialist Practice Act, or regulations

(Rule 1370-02-.15, continued)

pursuant thereto, in such manner as to impact directly on the care of patients or the public.

3. A Type C Civil Penalty may be imposed whenever the Council finds the person required to be licensed by the Council is guilty of a violation of the Hearing Instrument Specialist Practice Act, or regulations promulgated thereto, which are neither directly detrimental to the patients or public, nor directly impact their care, but have only indirect relationship to patient care or the public.

(c) Amount of Civil Penalties

1. Type A Civil Penalties shall be assessed in the amount of not less than \$500 or more than \$1,000.
2. Type B Civil Penalties may be assessed in the amount of not less than \$100 and not more than \$500.
3. Type C Civil Penalties may be assessed in the amount of not less than \$50 and not more than \$100.

(d) Procedures for Assessing Civil Penalties.

1. The Division of Health Related Boards may initiate a civil penalty assessment by filing a Memorandum of Assessment of Civil Penalty. The Division shall state in the memorandum the facts and law upon which it relies in alleging a violation, the proposed amount of the civil penalty, and the basis for such penalty. The Division may incorporate the Memorandum of Assessment of Civil Penalty with a Notice of Charges which may be issued attendant thereto.
2. Civil Penalties may also be initiated and assessed by the Council during consideration of any Notice of Charges. In addition, the Council may, upon good cause shown, assess a type and amount of civil penalty which was not recommended by the Division.
3. In assessing the civil penalties pursuant to these rules, the Council may consider the following factors:
  - (i) Whether the amount imposed will be a substantial economic deterrent to the violator;
  - (ii) The circumstances leading to the violation;
  - (iii) The severity of the violation and the risk of harm to the public;
  - (iv) The economic benefits gained by the violator as a result of non-compliance; and
  - (v) The interest of the public.
4. All proceedings for the assessment of civil penalties shall be governed by the contested case provisions of Title 4, Chapter 5, Tennessee Code Annotated.

- (6) The Council authorizes the member who chaired the Council for a contested case to be the agency member to make the decisions authorized pursuant to Rule 1360-04-01-.18 regarding petitions for reconsiderations and stays in that case.

(Rule 1370-02-.15, continued)

- (7) Assessment of costs in disciplinary proceedings shall be as set forth in T.C.A. §§ 63-1-144 and 63-17-219.

(8) Subpoenas

- (a) Purpose - Although this rule applies to persons and entities other than hearing instrument specialists, it is the Council's intent as to hearing instrument specialists that they be free to practice their profession without fear that such practice or its documentation will be unduly subjected to scrutiny outside the profession. Consequently, balancing that intent against the interest of the public and patients to be protected against substandard care and activities requires that persons seeking to subpoena such information and/or materials must comply with the substance and procedures of these rules.

It is the intent of the Council that the subpoena power outlined herein shall be strictly proscribed. Such power shall not be used by the division or council investigators to seek other incriminating evidence against hearing instrument specialists when the division or council does not have a complaint or basis to pursue such an investigation. Thus, unless the division or its investigators have previously considered, discovered, or otherwise received a complaint from either the public or a governmental entity, then no subpoena as contemplated herein shall issue.

- (b) Definitions - As used in this chapter of rules the following words shall have the meanings ascribed to them:

1. Probable Cause

- (i) For Investigative Subpoenas - shall mean that probable cause, as defined by case law at the time of request for subpoena issuance is made, exists that a violation of the Licensure Act for Communication Disorders and Sciences or rules promulgated pursuant thereto has occurred or is occurring and that it is more probable than not that the person(s), or items to be subpoenaed possess or contain evidence which is more probable than not relevant to the conduct constituting the violation.
- (ii) The utilization of the probable cause evidentiary burden in proceedings pursuant to this rule shall not in any way, nor should it be construed in any way to establish a more restrictive burden of proof than the existing preponderance of the evidence in any civil disciplinary action which may involve the person(s) or items that are the subject of the subpoena.

2. Presiding Officer - For investigative subpoenas shall mean any elected officer of the Council, or any duly appointed or elected chairperson of any panel of the Council.

(c) Procedures

1. Investigative Subpoenas

- (i) Investigative Subpoenas are available only for issuance to the authorized representatives of the Tennessee Department of Health, its investigators and its legal staff.
- (ii) An applicant for such a subpoena must either orally or in writing notify the Council's Unit Director of the intention to seek issuance of a subpoena. That notification must include the following:

(Rule 1370-02-.15, continued)

- (I) The time frame in which issuance is required so the matter can be timely scheduled; and
  - (II) A particular description of the material or documents sought, which must relate directly to an ongoing investigation or contested case, and shall, in the instance of documentary materials, be limited to the records of the patient or patients whose complaint, complaints, or records are being considered by the division or council.
    - I. In no event shall such subpoena be broadly drafted to provide investigative access to hearing instrument records of other patients who are not referenced in a complaint received from an individual or governmental entity, or who have not otherwise sought relief, review, or Council consideration of a hearing instrument specialist's conduct, act, or omission.
    - II. If the subpoena relates to the prescribing practices of a licensee, then it shall be directed solely to the records of the patient(s) who received the pharmaceutical agents and whom the board of pharmacy or issuing pharmacy(ies) has so identified as recipients; and
  - (III) Whether the proceedings for the issuance are to be conducted by physical appearance or electronic means; and
  - (IV) The name and address of the person for whom the subpoena is being sought or who has possession of the items being subpoenaed.
- (iii) The Council's Unit Director shall cause to have the following done:
- (I) In as timely a manner as possible arrange for either an elected officer of the Council, or any duly appointed or elected chairperson of the Council, to preside and determine if issuing the subpoena should be recommended to the full Council; and
  - (II) Establish a date, time and place for the proceedings to be conducted and notify the presiding officer, the applicant and the court reporter; and
  - (III) Maintain a complete record of the proceedings including an audio tape in such a manner as to:
    - I. Preserve a verbatim record of the proceeding; and
    - II. Prevent the person presiding over the proceedings and/or signing the subpoena from being allowed to participate in any manner in any disciplinary action of any kind formal or informal which may result which involves either the person or the documents or records for which the subpoena was issued.
- (iv) The Proceedings
- (I) The applicant shall do the following:



(Rule 1370-02-.15, continued)

- I. Provide for the attendance of all persons whose testimony is to be relied upon to establish probable cause; and
- II. Produce and make part of the record copies of all documents to be utilized to establish probable cause; and
- III. Obtain, complete and provide to the presiding officer a subpoena which specifies the following:
  - A. The name and address of the person for whom the subpoena is being sought or who has possession of the items being subpoenaed; and
  - B. The location of the materials, documents or reports for which production pursuant to the subpoena is sought if that location is known; and
  - C. A brief, particular description of any materials, documents or items to be produced pursuant to the subpoena; and
  - D. The date, time and place for compliance with the subpoena.
- IV. Provide the presiding officer testimony and/or documentary evidence which in good faith the applicant believes is sufficient to establish that probable cause exists for issuance of the subpoena as well as sufficient proof that all other reasonably available alternative means of securing the materials, documents or items have been unsuccessful.

(II) The Presiding Officer shall do the following:

- I. Have been selected only after assuring the Council's Unit Director that he or she has no prior knowledge of or any direct or indirect interest in or relationship with the person(s) being subpoenaed and/or the licensee who is the subject of the investigation; and
- II. Commence the proceedings and swear all necessary witnesses; and
- III. Hear and maintain the confidentiality, if any, of the evidence presented at the proceedings and present to the full Council only that evidence necessary for an informed decision; and
- IV. Control the manner and extent of inquiry during the proceedings and be allowed to question any witness who testifies; and
- V. Determine based solely on the evidence presented in the proceedings whether probable cause exists and if so, make such recommendation to the full Council; and
- VI. Sign the subpoena as ordered to be issued; and

(Rule 1370-02-.15, continued)

- VII. Not participate in any way in any other proceeding whether formal or informal which involves the matters, items or person(s) which are the subject of the subpoena. This does not preclude the presiding officer from presiding at further proceedings for issuance of subpoenas in the matter.

(III) The Council shall do the following:

- I. By a vote of two-thirds (2/3) of the members to which the Council is entitled, issue the subpoena for the person(s) or items specifically found to be relevant to the inquiry, or quash or modify an existing subpoena by a majority vote; and
  - II. Sign the subpoena as ordered to be issued, quashed or modified.
2. Post-Notice of Charges Subpoenas - If the subpoena is sought for a contested case being heard with an Administrative Law Judge from the Secretary of State's office presiding, this definition shall not apply and all such post-notice of charges subpoenas should be obtained from the office of the Administrative Procedures Division of the Office of the Secretary of State pursuant to the Uniform Administrative Procedures Act and rules promulgated pursuant thereto.

(d) Subpoena Forms

1. All subpoenas shall be issued on forms approved by the Council.
2. The subpoena forms may be obtained by contacting the Council's Administrative Office.

(e) Subpoena Service - Any method of service of subpoenas authorized by the Tennessee Rules of Civil Procedure or the rules of the Tennessee Department of State, Administrative Procedures Division may be utilized to serve subpoenas pursuant to this rule.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 63-17-105, 63-17-203, and 63-17-219. **Administrative History:** Original rule filed April 29, 1992; effective June 13, 1992. Repeal and new rule renumbered from 0760-01-.15 filed December 28, 1999; effective March 12, 2000. Amendment filed February 10, 2000; effective April 25, 2000. Amendment filed February 20, 2002; effective May 6, 2002. Amendment filed October 12, 2004; effective December 26, 2004. Amendment filed October 18, 2004; effective January 1, 2005. Amendment filed June 29, 2007; effective September 12, 2007.

#### 1370-02-.16 LICENSE.

- (1) Issuance - Upon the Council determining that an applicant for licensure has successfully met all the requirements as set forth in T.C.A. §§ 63-17-201, et seq., and these rules, and upon receipt within thirty (30) days of notification in writing of such status, the applicant is required to submit to the Council's office the initial license fee pursuant to Rule 1370-02-.12.
- (2) Display of License - Every person engaged in the fitting and dispensing of hearing instruments in this state shall display his license in a conspicuous place in his principal office and, whenever required, exhibit such license to the Council or its authorized representative.
- (3) Replacement License - A licensee whose "artistically designed" document or wall license has been lost or destroyed may be issued a new wall license upon receipt of a written request in the Council Administrative Office. Such request shall be accompanied by an affidavit (signed

(Rule 1370-02-.16, continued)

and notarized) stating the facts concerning the loss or destruction of the original license, a recent photograph which has been signed by the licensee on the back, and the required fee pursuant to Rule 1370-02-.06. This process shall be accomplished by the Council's Unit Director.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 63-1-106, 63-1-109, 63-15-103, 63-15-105, 63-15-111, 63-17-203, 63-17-205, and 63-17-211. **Administrative History:** Original rule filed April 29, 1992; effective June 13, 1992. Repeal and new rule renumbered from 0760-01-.16 filed December 28, 1999; effective March 12, 2000.

#### **1370-02-.17 CHANGE OF ADDRESS AND/OR NAME.**

- (1) Before engaging in the practice of fitting or selling hearing instruments, each licensee shall notify the Council in writing of the address of his primary business where he is to engage, or intends to engage, in the fitting or selling of hearing instruments.
- (2) If any changes occur in his place of business, the licensee must notify the Council's Administrative Office in writing within thirty (30) days of such change and reference the individual's name, profession, and license number. Failure to give such notice of the business address change shall be deemed just cause for disciplinary action by the Council.
- (3) Each person holding a license who has had a change of address shall file in writing with the Council his current mailing address, giving both old and new address. Such requests should be received in the Council's Administration Office no later than thirty (30) days after such change has occurred and reference the licensee's name, profession, and license number.
- (4) Change of name - A Licensee registered with the Council shall notify the Council's Administrative Office in writing, within thirty (30) days of a name change. A copy of the official document evidencing the name change shall be included. Such request must reference the licensee's profession and license number.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 63-1-106, 63-1-108, 63-15-112, 63-17-203, and 63-17-212. **Administrative History:** Original rule filed April 29, 1992; effective June 13, 1992. Repeal and new rule renumbered from 0760-01-.17 filed December 28, 1999; effective March 12, 2000.

#### **1370-02-.18 MANDATORY RELEASE OF CLIENT RECORDS.**

- (1) Upon written request from a client or the client's authorized representative, licensees shall provide a complete copy of the client's records or summary of such records maintained by the licensee within ten (10) working days.
- (2) The individual requesting the records shall be responsible for payment of a reasonable fee in advance to the licensee for copying and mailing of the records.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 63-2-101, 63-2-102, and 63-17-203. **Administrative History:** Original rule filed April 29, 1992; effective June 13, 1992. Repeal and new rule renumbered from 0760-01-.18 filed December 28, 1999; effective March 12, 2000.

#### **1370-02-.19 COUNCIL MEETINGS, OFFICERS, CONSULTANTS, RECORDS, DECLARATORY ORDERS, AND SCREENING PANELS.**

- (1) The Council may elect annually from its membership a chairperson and a secretary who each shall hold office for one (1) year or until the election and qualification of a successor.
  - (a) Chairperson - Presides at all Council meetings.

(Rule 1370-02-.19, continued)

- (b) Secretary - Who along with the Council administrator shall be responsible for correspondence from the Council.
- (2) Council meetings - The Council shall meet at least once each year at a place and time determined by the Chair, and shall also meet at such other times and places as may be appropriate.
- (3) The Council has the authority to select a Consultant, as approved by the Board, who shall serve as a Consultant to the Division.
- (4) Records and Complaints
  - (a) All requests, applications, notices, other communications and correspondence shall be directed to the Council's Administrative Office. Any requests or inquiries requiring a Council decision or official Council action except documents relating to disciplinary actions or hearing requests must be received fourteen (14) days prior to a scheduled Council meeting and will be retained in the Administrative Office and presented to the Council at the Council meeting. Such documentation not timely received shall be set over to the next Council meeting.
  - (b) All records of the Council, except those made confidential by law, are open for inspection and examination, under the supervision of an employee of the Division at the Council's Administrative Office.
  - (c) Copies of public records shall be provided to any person upon payment of the cost of copying.
  - (d) Complaints made against a licensed practitioner become public information only upon the filing of a notice of charges by the Department of Health.
  - (e) All complaints should be directed to the Investigations Section of Health Related Boards.
- (5) Screening Panels - The Council adopts, as if fully set out herein, Rule 1200-10-01-.13, of the Division of Health Related Boards and as it may from time to time be amended, as its rule governing the screening panel process.
- (6) Declaratory Orders - The Board adopts, as if fully set out herein, Rule 1200-10-01-.11, of the Division of Health Related Boards and as it may from time to time be amended, as its rule governing the declaratory order process. All declaratory order petitions involving statutes, rules or orders within the jurisdiction of the Board shall be addressed by the Board pursuant to that rule and not by the Division. Declaratory Order Petition forms can be obtained from the Board's Administrative Office.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 63-1-138, 63-15-203, 63-17-105, 63-17-219, and 63-17-220.

**Administrative History:** Original rule filed April 29, 1992; effective June 13, 1992. Repeal and new rule renumbered from 0760-01-.19 filed December 28, 1999; effective March 12, 2000. Amendment filed February 10, 2000; effective April 25, 2000. Amendment filed July 10, 2006; effective September 23, 2006.

#### **1370-02-.20 ADVERTISING.**

- (1) All advertisements shall adhere to the proscriptions specifically set out in Rule 1370-02-.13 governing unethical conduct.
- (2) Advertising Records and Responsibility

(Rule 1370-02-.20, continued)

- (a) Each licensee who is a principal partner, or officer of a firm or entity identified in any advertisement, is jointly and severally responsible for the form and content of any advertisement. This provision shall also include any licensed professional employees acting as an agent of such firm or entity.
- (b) Any and all advertisements are presumed to have been approved by the licensee named therein.
- (c) A recording of every advertisement communicated by electronic media, and a copy of every advertisement communicated by print media, and a copy of any other form of advertisement shall be retained by the licensee for a period of one (1) year from the last date of broadcast or publication and be made available for review upon request by the Council or its designee.
- (d) At the time any type of advertisement is placed, the licensee must possess and rely upon information which, when produced, would substantiate the truthfulness of any assertion, omission or representation of material fact set forth in the advertisement or public information.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 63-1-116, 63-1-145, 63-17-105, and 63-17-203. **Administrative History:** Original rule filed December 28, 1999; effective March 12, 2000. Amendment filed July 10, 2006; effective September 23, 2006.

#### **1370-02-.21 RECORDS, SERVICES AND TESTS.**

##### **(1) Records**

- (a) **Client's Record.** The record for each client shall include a case history, the results of all required tests and a legend (key) explaining the symbols of results used in the audiogram. Records of the required test and dispensing procedures shall be maintained as a part of the client's file and shall show also the model number or name, serial number, type of circuit response or any adjustment made on instruments that have adjustable circuits. Such records shall be maintained and preserved for a minimum of three (3) years after the last entry in the records.
- (b) **Orientation Program.** Every hearing aid client shall be offered at the site of the sale a personalized counseling program provided by the HIS or an individual licensed by the Council. The counseling program shall be provided with each new fitting and designed to ensure that proper use and operation of the instrument are understood by the client.
- (c) **Earmold.** Every air conduction fitting that requires an earmold shall include a properly fitting custom earmold except in cases where, in the dispenser's judgment, the client would be better fitted without the use of a new mold. In special fittings where an earmold is not required, such shall be noted in the record.
- (d) **Examination of the Ear.** The dispenser shall make an examination of the client's external ears by means of an otoscope, or other instrument designed for that purpose, before any audiometric test is made and before and after the making of an earmold impression. Any abnormality detected by this inspection must be reported to the client and the client advised to seek medical advice and this shall be recorded on the test record.

- (2) **Bill of Sale for Hearing Equipment -** To insure that appropriate follow up services are available to consumers in Tennessee, licensees shall deliver to each person supplied with a hearing instrument a bill of sale which contains each of the following:

(Rule 1370-02-.21, continued)

- (a) The signature of the licensed hearing instrument specialist, the address of the specialist's regular place of business, the specialist's license number with an expiration date.
  - (b) The make and model of the hearing instrument supplied and the amount charged including a description, i.e., new, used, rebuilt.
  - (c) Clear statement of terms of sale including provisions required by T.C.A. § 63-17-217.
  - (d) Name and address of the Council.
  - (e) Statement that the Council will receive complaints on any matter relating to the fitting and dispensing of hearing instruments.
  - (f) If the licensee has no location in Tennessee, an outline of follow up services must be made available to Tennessee residents who purchase the dealer's services within Tennessee.
- (3) Tests
- (a) Puretone Audiometry.
    - 1. Thresholds shall be determined for each ear with air and bone conducted puretone stimuli. Air conduction stimuli must include 0.5, 1, 2, and 4K Hertz. Bone conduction stimuli must include .05, 1, 2, and 4K Hertz. On a client whose bone conduction threshold has been previously charted and that chart is a part of the client's permanent record, the licensee, at his discretion, may omit any new bone conduction testing, if there has been no appreciable change in the air conduction thresholds.
    - 2. Appropriate masking must be used with air and bone conducted stimuli whenever necessary to obtain valid results.
  - (b) Discrimination Tests. There shall be a measurement of the client's speech discrimination ability at each ear using widely recognized test material prior to fitting. Appropriate masking must be used with speech stimuli whenever necessary to obtain valid results.
  - (c) Post-Fitting Tests. There shall be a measurement of the client's hearing ability using widely recognized test material while the client is wearing the selected hearing aid(s) adjusted for the selection gain, M.P. output, and frequency response.
  - (d) Tests for Tolerance. There shall be a measurement of the client's tolerance for amplified auditory stimuli using speech, puretones, or a complex signal representative of the speech spectrum (0.5, 1 and 2K Hz) or a method deemed acceptable by the Council.
  - (e) Omitted Tests.
    - 1. The required tests may be omitted only under the most unusual circumstances, such as the inability of the client to perform the task.
    - 2. When a fitting is being made upon referral, the specified tests may be omitted if the referring source has forwarded to the dispenser copies of those test results. However, these tests must have been performed within ninety (90) days. The

(Rule 1370-02-.21, continued)

licensed dispenser who omits specified tests and accepts tests performed by referring professional shall orally inform and conspicuously set forth in the sales contract that the hearing aid dispenser is not responsible for the validity and accuracy of the tests.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 63-15-101, 63-15-103, 63-15-110, 63-15-114, 63-15-115, 63-17-201, 63-17-203, 63-17-210, 63-17-214, and 63-17-215. **Administrative History:** Original rule filed April 29, 1992; effective June 13, 1992. Repeal and new rule renumbered from 0760-01-.20 filed December 28, 1999; effective March 12, 2000.