

CHAPTER 115
HOUSE BILL No. 2285

AN ACT concerning health care; relating to the board of examiners for hearing instruments; membership, powers and duties; relating to licensure, disciplinary actions, fees and penalties; amending K.S.A. 74-5801, 74-5802, 74-5804, 74-5805, 74-5806, 74-5807, 74-5808, 74-5809, 74-5810a, 74-5811, 74-5812, 74-5813, 74-5814, 74-5815, 74-5816, 74-5818, 74-5819, 74-5820, 74-5821 and 74-5823 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 74-5801 is hereby amended to read as follows: 74-5801. There is hereby established the Kansas board of examiners in fitting and dispensing of hearing ~~aids~~ *instruments* constituted as provided in this act and hereinafter called the "board."

Sec. 2. K.S.A. 74-5802 is hereby amended to read as follows: 74-5802. ~~Within sixty (60) days after the effective date of this act the~~ *(a) The* governor shall appoint a board of examiners of hearing ~~aid~~ *instrument* dispensers, consisting of five ~~(5)~~ persons. No person shall be eligible for appointment as a member of ~~said~~ *the* board unless ~~he~~ *such person* is a resident of Kansas. ~~Three (3) The governor shall appoint three~~ members of such board ~~shall be members of a Kansas hearing aid association affiliated with a national hearing aid association having affiliations in not less than ten (10) states, shall be certified by a national hearing aid association having affiliations in not less than ten (10) states, and who are licensed in this state as hearing instrument fitters and dispensers and shall have been engaged in the actual practice of fitting and dispensing hearing aids instruments in this state continuously for the last five (5) years.~~ ~~Two (2) The Kansas hearing aid association shall submit the names of three persons licensed in this state as hearing instrument fitters and dispensers and the Kansas speech language and hearing association shall submit the names of three persons licensed in this state as hearing instrument fitters and dispensers to the governor who shall select at least one member from each list to be on the board with the third member being selected by the governor. The final composition of the board shall include one audiologist who is also licensed as a hearing instrument fitter and dispenser and one hearing instrument fitter and dispenser who is not licensed as an audiologist. The governor shall appoint two~~ members of such board ~~shall be~~ *who are* individuals not currently engaged in the practice of fitting and dispensing hearing aids in the state of Kansas. ~~Two members shall be appointed for terms of three years; two members shall be appointed for terms of two years; and one member shall be appointed for a term of one year, thereafter successors instruments nor have any current or previous affiliation with a fitter and dispenser of hearing instruments. Each member shall be appointed by the governor for terms of three years. Vacancies shall be filled by appointment by the governor for the unexpired term. The governor shall have the power to remove from office any member of the board for neglect of duty, incompetency, improper or unprofessional conduct, or when the certificate of a member has been revoked.~~

(b) The provisions of this act shall not affect the office of any member of the board appointed prior to the effective date of this act. As positions become vacant on the board, appointments shall be made in a manner so as to comply with the provisions of this section.

Sec. 3. K.S.A. 74-5804 is hereby amended to read as follows: 74-5804. The board shall keep a record in which shall be registered the name, residence, place of business, date of issuance of ~~certificate~~ *license*, renewals, revocations ~~and~~ *suspensions or other disciplinary action* of every person authorized under this act to practice the fitting of or dispensing of hearing aids. A majority of ~~said~~ *the* board shall constitute a quorum and the proceedings thereof shall be open ~~for to the public inspection.~~

Sec. 4. K.S.A. 74-5805 is hereby amended to read as follows: 74-5805. At the first meeting of the board in every year it shall elect from its own membership a chairman and vice-chairman. The board shall appoint one of its own members or some other person to serve as executive officer of the board. The executive officer shall be in the unclassified service of the Kansas civil service act and shall receive compensation fixed by the board with the approval of the state finance council.

Members of the board of examiners in fitting and dispensing of hearing ~~aids~~ attending meetings of such board, or attending a subcommittee

meeting thereof authorized by such board, shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto. The board shall remit all moneys received by or for it from fees, charges or penalties to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury. Twenty percent of each such deposit shall be credited to the state general fund and the balance shall be credited to the hearing ~~aid instrument~~ board fee fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the ~~secretary-treasurer~~ executive officer or by a person or persons designated by such ~~secretary-treasurer~~ executive officer.

Sec. 5. K.S.A. 74-5806 is hereby amended to read as follows: 74-5806. The board is hereby authorized, empowered and directed to administer and enforce the provisions of this act and it is hereby granted such specific powers as are necessary for the purpose of administering and enforcing the same. In addition thereto the board shall have the power:

(a) To employ or *contract with* agents, attorneys and inspectors under such rules and regulations as it may prescribe in accordance with the provisions of this act, but no state officer shall be eligible for employment by the board.

(b) To make all necessary disbursements; *and purchases* to carry out the provisions of this act, ~~including payment for the premium on the bond of the secretary-treasurer, stationery supplies, to purchase and maintain or rent audiometric equipment and facilities necessary to carry out the examination of applicants for license, the printing and circulating to all holders of hearing aid licenses in the state, and issue a yearbook which shall contain the names and addresses of all holders of hearing aid licenses in the state.~~

(c) To appoint representatives to conduct or supervise the examination of applicants for license.

(d) To designate the time and place for examining applicants for licenses.

(e) The board shall preserve an accurate record of all meetings and proceedings of the board including *a complete minutes record* of all prosecutions and *disciplinary actions for violations of this act and rules and regulations adopted thereunder*, and of examinations held under the provisions hereof. Such records shall be kept in the office of the board and made accessible to the public *in accordance with the Kansas open records act*.

(f) To administer oaths; take testimony upon ~~granting~~, revoking or, suspending ~~certificates of registration or taking other disciplinary action against licenses.~~

(g) To grant all ~~certificates of registration and endorsement as to it shall seem just and proper licenses to eligible applicants~~ and to revoke, suspend or take other authorized disciplinary action against any such ~~certificate~~ license granted for any of the causes specified in ~~K.S.A. 74-5816 this act or rules and regulations adopted thereunder.~~

(h) Each witness who appears before ~~said~~ the board at its request, other than a state officer or employee, shall receive for his attendance the fees and mileage provided for witnesses in civil cases in courts of record which shall be audited and paid upon the presentation of proper vouchers sworn to by such witnesses and approved by the ~~president and secretary~~ chair or executive officer of ~~said~~ the board.

(i) To make rules and regulations for the procedure ~~and~~, conduct and government of applicants ~~for certificates of registration and endorsement, and licensed and registered hearing aid dispensers, and licensees, for implementation and administration of this act~~ and to prescribe by rules and regulations a code of ethics for the ~~practitioner of the hearing aid art hearing instrument fitters and dispensers~~ within this state, which ~~said~~ the rules and regulations shall not be inconsistent with the provisions of this act.

(j) To require, in its discretion, the periodic inspection and calibration of audiometric testing equipment and to carry out the periodic inspection of facilities of all persons who practice the fitting or ~~selling~~ dispensing of hearing ~~aids~~ instruments.

Sec. 6. K.S.A. 74-5807 is hereby amended to read as follows: 74-5807. As used in this act, unless the context otherwise requires:

(a) The “board” means the Kansas board of examiners in fitting and dispensing of hearing ~~aids instruments~~.

(b) “License” means an authorization to practice the fitting and dispensing of hearing instruments pursuant to this act and includes a temporary license, ~~certificate of registration~~, and any certificate of endorsement issued prior to July 1, 2005.

(c) “Hearing ~~aid instrument~~” means any instrument, aid or device designed for or represented as aiding; or improving or ~~correcting defective~~ impaired human hearing and any parts of such an instrument, aid or device.

(d) “Practice of fitting and dispensing ~~and fitting hearing aids instruments~~” means the evaluation or measurement of the powers or range of human hearing by means of an audiometer or by any other means ~~devised as established by rules and regulations of the board~~ and the consequent selection or adaptation or sale of hearing ~~aids instruments~~ intended to compensate for hearing loss, including the making of an impression of the ear.

Sec. 7. K.S.A. 74-5808 is hereby amended to read as follows: 74-5808. (a) No person shall engage in the sale of or practice of dispensing and fitting hearing ~~aids instruments~~ or display a sign or in any other way advertise or hold ~~himself oneself~~ out as a person who practices the dispensing and fitting of hearing ~~aids instruments~~ unless ~~he such person~~ holds a current, unsuspended, unrevoked license issued by the board as provided in this act, or unless ~~he such person~~ holds a current, unsuspended, unrevoked certificate of endorsement ~~pursuant to K.S.A. 74-5814~~. The license or certificate required by this section shall be kept conspicuously posted in ~~his such person’s~~ office or place of business at all times.

(b) No person shall use the title “hearing instrument dispenser,” “hearing aid dispenser,” “hearing instrument specialist,” “hearing aid specialist,” “hearing aid dealer,” “hearing instrument dealer” or any other comparable or similar term or by any other words, letters, abbreviations or insignia that indicate such person practices the fitting of hearing instruments unless such person is licensed by the board.

Sec. 8. K.S.A. 74-5809 is hereby amended to read as follows: 74-5809. Any person who practices the fitting or dispensing of hearing aids shall ~~deliver provide~~ to each person ~~supplied with purchaser~~ of a hearing aid, by him or at his order or direction, a bill of sale instrument, a purchase agreement which shall contain ~~his the licensee’s~~ printed name and his signature and show the address of his regular place of practice and the licensee number of his license, together with a description of the make and model of the hearing aid furnished and the amount charged therefor. The purchase agreement shall include the brand, model, style, type of technology, warranty and the amount charged for the hearing instrument furnished to the consumer. The bill of sale purchase agreement shall also ~~reveal~~ include the condition of the hearing ~~device instrument~~ and whether it is assembled, new, used or rebuilt.

Sec. 9. K.S.A. 74-5810a is hereby amended to read as follows: 74-5810a. (a) The ~~Kansas board of examiners in fitting and dispensing of hearing aids~~ is hereby authorized to adopt rules and regulations fixing the amount of fees for the following items and to charge and collect the amounts so fixed subject to the following limitations:

License application—not more than	\$150
Temporary license—not more than	\$150
Temporary license renewal—not more than	\$150
Certificate of registration or endorsement License—not more than	\$150
License or certificate of registration or endorsement renewal—not more than	\$150
License or certificate of registration or endorsement late renewal—not more than	\$200
License or certificate of registration or endorsement extended late re- newal reinstatement—not more than	\$300
Examination (written)—not more than	\$50
Examination (practical, each section)—not more than	\$35
State licensure verification <i>per state</i> —not more than	\$25
Replacement of certificate or license—not more than	\$25
Change of sponsor supervisor—not more than	\$25
Insufficient funds—not more than	\$35
Inactive license or renewal of inactive license—not more than	\$25
Conversion of inactive license to active license—not more than	\$150

(b) Whenever the board shall determine that the total amount of revenue derived from the fees collected pursuant to this section is insufficient to carry out the purposes for which such fees are collected, the board may amend such rules and regulations to increase the amount of the fee, except that the amount of the fee for any item shall not exceed the maximum amount authorized by this section. Whenever the amount of fees collected pursuant to this section provides revenue in excess of the amount necessary to carry out the purposes for which such fees are collected, it shall be the duty of the board to decrease the amount of the fee for one or more of the items listed in this subsection by amending the rules and regulations which fix such fees.

~~(c) Fees charged by the board on the day preceding the effective date of this act shall continue in effect until rules and regulations are adopted by the board fixing a different amount. Fees authorized to be charged for any item specified in subsection (a) for the first time under this act shall not be charged until the amount of such fee is fixed by the board by rules and regulations.~~

~~(d) Fees paid under this section are not refundable.~~

Sec. 10. K.S.A. 74-5811 is hereby amended to read as follows: 74-5811. An applicant for a license *shall submit an application on a form provided by the board and* shall pay the license application fee provided for in K.S.A. 74-5810a and amendments thereto and shall show to the satisfaction of the board that such applicant:

(a) Is 21 years of age or older; and

(b) ~~has an education equivalent to a four-year course in an~~ *graduated from an accredited high school or has a degree equivalent to graduation from an accredited high school.*

Sec. 11. K.S.A. 74-5812 is hereby amended to read as follows: 74-5812. (a) An applicant for a license who is notified by the board that such applicant has fulfilled the requirements of K.S.A. 74-5811 shall appear at a time, place and before such persons as the board may designate, to be examined by written and practical tests in order to demonstrate that such applicant is qualified to practice the fitting *and dispensing* of hearing ~~aids~~ *instruments*:

(b) An applicant who fulfills the requirements of K.S.A. 74-5811, *who has completed the required training hours as established by rules and regulations of the board and who has not previously applied to take the examination provided under this section held a temporary license within the preceding three years* may apply to the board for a temporary license.

(c) Upon receiving an application provided under subsection (b) of this section, accompanied by the temporary license fee provided for in K.S.A. 74-5810a, the board may issue a temporary license which shall entitle the applicant to practice the fitting and dispensing of hearing ~~aids~~ *instruments* for a period ending ~~thirty (30)~~ 30 days after the conclusion of the next examination ~~given after the date of issue.~~

(d) No temporary license shall be issued by the board under this section unless the applicant shows to the satisfaction of the board that such applicant is or will be employed ~~by a supervised and trained,~~ *and in the course of such employment will practice fitting and dispensing of hearing instruments under the supervision of a person who holds a valid license or certificate of endorsement issued under this act and meets any other requirements established by rules and regulations of the board.*

(e) If a person who holds a temporary license issued under this section does not take the next examination given after the date of issue, the temporary license shall not be renewed, except for good cause shown to the satisfaction of the board.

(f) *If a person who holds a temporary license passes the examination, upon payment of the license fee, the board shall issue such person a license to practice fitting and dispensing of hearing instruments.*

~~(g) If a person who holds a temporary license issued under this section takes and fails to pass the next examination given after the date of issue, the board may renew the temporary license for a period ending thirty (30) days after the results of the next examination given after the date of renewal are announced, but in any event the time for which. However, an individual may hold a temporary license shall not exceed sixteen (16) no more than 16 months. In no event shall~~ No more than one renewal *shall* be permitted. A temporary license renewal fee as provided for in K.S.A. 74-5810a shall be charged by the board.

(h) *A temporary license may be revoked, suspended or otherwise dis-*

ciplined for the same grounds as provided in this act for licensees.

Sec. 12. K.S.A. 74-5813 is hereby amended to read as follows: 74-5813. The examination provided in K.S.A. 74-5812 shall consist of:

(a) Tests of knowledge in the following areas as they pertain to the fitting of hearing ~~aids~~ *instruments*.

(1) Basic physics of sound.

(2) The human hearing mechanism, including the science of hearing and the cause and rehabilitation of abnormal hearing and hearing disorders.

(3) Structure and function of hearing ~~aids~~ *instruments*.

(4) Other areas relating to the fitting of hearing ~~aids~~ *instruments* as may be determined by the board.

(b) Tests of proficiency in the following techniques as they pertain to the fitting of hearing ~~aids~~ *instruments*.

(1) Pure tone audiometry, including air conduction testing and bone conduction testing.

(2) Live voice or ~~record~~ *recorded* voice speech audiometry.

(3) Effective masking.

(4) Recording and evaluation of *pure tone* audiograms and speech audiometry to determine hearing ~~aid~~ *instrument* candidacy.

(5) Selection and adaptation of hearing ~~aids~~ *instruments* and testing of hearing ~~aids~~ *instruments*.

(6) Taking earmold impressions.

(7) *Troubleshooting and modification of hearing instruments.*

(8) *Food and drug administration medical referral criteria.*

(9) *The hearing instrument act and rules and regulations adopted thereunder.*

~~(7)~~ (10) Other skills as may be determined by the board for the fitting and dispensing of hearing ~~aids~~ *instruments*.

(c) The tests under this section shall not include questions requiring a medical or surgical education.

Sec. 13. K.S.A. 74-5814 is hereby amended to read as follows: 74-5814. (a) The board shall ~~register each applicant, and issue a certificate of registration thereto, license to each applicant who (1) satisfactorily passes the examination, or (2) is currently licensed as an audiologist under K.S.A. 65-6501 et seq., and amendments thereto, and holds a doctoral degree or its equivalent in audiology from a nationally or regionally accredited college or university in a program with educational standards consistent with those of the state universities of Kansas, who pays the certificate of registration or endorsement license fee provided for in K.S.A. 74-5810a and amendments thereto and who submits documentation that the calibration of the applicant's audiometric testing equipment has been tested and verified as accurate within the preceding two-year period. The certificate of registration license shall be effective for one year.~~

(b) ~~Whenever the board determines that another state or jurisdiction has requirements equivalent to or higher than those in effect pursuant to this act for the selling and the practice of fitting hearing aids, and such state or jurisdiction has a program equivalent to or stricter than the program for determining whether applicants pursuant to this act are qualified to sell and fit hearing aids, the board may issue certificates of endorsement to applicants therefor who hold current, unsuspended and unrevoked certificates or licenses to sell and fit hearing aids in such other state or jurisdiction. No such applicant for a certificate of endorsement pursuant to this subsection shall be required to submit to or undergo any examination, investigation or other procedure, other than the payment of the appropriate fees, pursuant to K.S.A. 74-5811 and 74-5812 and amendments to those sections in the amounts provided for in K.S.A. 74-5810a and amendments thereto and the requirement to submit documentation that the calibration of the applicant's audiometric testing equipment has been tested and verified as accurate within the preceding two-year period. The holder of a certificate of endorsement shall be registered in the same manner as holders of certificates of registration. The fee for an initial certificate of endorsement shall be the same as the fee for an initial certificate of registration. Fees, grounds and procedures for renewal, suspension and revocation of certificates of endorsement shall be the same as for renewal, suspension and revocation of certificates of registration. The board may issue a license to a person who is currently licensed to practice fitting and dispensing of hearing instruments in another juris-~~

diction if the board determines that the applicant demonstrates, on forms provided by the board, compliance with the following standards as adopted by the board:

(1) Continuous licensure to practice fitting and dispensing of hearing instruments during the five years immediately preceding the application with at least the minimum professional experience as established by rules and regulations of the board; and

(2) the absence of disciplinary actions of a serious nature brought by a licensing board or agency of another jurisdiction.

Sec. 14. K.S.A. 74-5815 is hereby amended to read as follows: 74-5815. (a) A person who holds a ~~certificate of endorsement~~ license shall notify the board in writing of the *business name and* address of the place or places where ~~he~~ *such person* engages or intends to engage in the practice of fitting or dispensing of hearing ~~aids~~ *instruments and shall notify the board within 10 days of any change of such information.*

(b) A person who holds a temporary license shall further notify the board in writing within 10 days of any change of such person's supervisor and submit the change of supervisor fee.

(c) The board shall keep a record of the places of practice of persons who hold a license, ~~temporary license, or certificates of endorsements or temporary license.~~ Any notice required to be given by the board to a person who holds a license, temporary license or certificate of endorsement may be given by mailing it to ~~him~~ *at* the address of the last place of practice of which ~~he~~ *such person* has notified the board.

Sec. 15. K.S.A. 74-5816 is hereby amended to read as follows: 74-5816. (a) *The executive officer of the board shall send a written notice of renewal to every person holding a valid license to practice the fitting and dispensing of hearing instruments within the state at least 30 days prior to the first day of July in each year, directed to the last known address of such licensee.*

(b) A person who practices the fitting and dispensing of hearing ~~aids~~ *instruments* shall annually pay to the board the ~~certificate of registration or endorsement~~ license renewal fee provided for in K.S.A. 74-5810a and amendments thereto for renewal of such person's license ~~or certificate of endorsement~~ and shall submit documentation that the calibration of the person's audiometric testing equipment has been tested and verified as accurate within the preceding two-year period. A thirty-day grace period shall be allowed after the expiration of a license ~~or certificate of endorsement~~ during which the same may be renewed on payment to the board of the ~~certificate of registration or endorsement~~ late renewal fee provided for in K.S.A. 74-5810a and amendments thereto and submission of the documentation of testing and verification of calibration. ~~The board may suspend the license or certificate of any person who fails to have such person's license or certificate renewed by the expiration of the thirty-day grace period. After~~

(c) *Within two years after the expiration of the grace period, the board may ~~renew~~ reinstate a license or certificate upon payment to the board of the ~~certificate of registration or endorsement~~ extended late renewal license reinstatement fee provided for in K.S.A. 74-5810a and amendments thereto and submission of the documentation of testing and verification of calibration. Such person may also be required to complete such additional testing, training or education as the board may deem necessary to establish the person's present ability to practice with reasonable skill and safety.*

(d) ~~No~~ A person who applies for ~~renewal~~ *reinstatement* and whose license ~~or certificate was suspended~~ *expired* for the sole reason of failure to renew shall be required to submit to any examination as a condition of ~~renewal~~ *reinstatement* if such person applies for ~~renewal~~ *reinstatement* more than two years from the date of ~~suspension~~ *expiration* of the license ~~or certificate~~.

New Sec. 16. (a) There is hereby created a designation of inactive license. The board is authorized to issue an inactive license to any licensee who makes written application for such license on a form provided by the board and remits the fee for an inactive license established pursuant to K.S.A. 74-5810a, and amendments thereto. The board may issue an inactive license only to a person who is not engaged in the practice of fitting and dispensing hearing instruments in Kansas and who does not hold oneself out to the public as being professionally engaged in such practice. An inactive license shall not entitle the holder to practice fitting and

dispensing hearing instruments in this state. The holder of an inactive license shall not be required to submit evidence of satisfactory completion of a program of continuing education required by K.S.A. 74-5821, and amendments thereto.

(b) Each inactive license may be renewed subject to the provisions of this section. Each inactive licensee may apply for a license to regularly engage in the practice of fitting and dispensing hearing instruments upon filing a written application with the board. The request shall be on a form provided by the board and shall be accompanied by the conversion fee established pursuant to K.S.A. 74-5810a, and amendments thereto, and documentation that the calibration of the person's audiometric testing equipment has been tested and verified as accurate. For those licensees whose license has been inactive for less than two years, the board shall adopt rules and regulations establishing appropriate continuing education requirements for inactive licensees to become licensed to regularly practice fitting and dispensing hearing instruments within Kansas. Any licensee whose license has been inactive for more than two years, in addition to completing appropriate continuing education requirements pursuant to rules and regulations adopted by the board, may be required to complete such additional testing, training or education as the board may deem necessary to establish the licensee's present ability to practice with reasonable skill and safety.

(c) This section shall be part of and supplemental to the hearing instrument act.

Sec. 17. K.S.A. 74-5818 is hereby amended to read as follows: 74-5818. ~~Any~~ An applicant or any person licensed under this act may have the license denied, revoked ~~or~~, suspended or conditioned for a fixed period to be determined by the board for any of the following causes:

(a) Conviction of a felony or a misdemeanor related to the practice of fitting and dispensing hearing instruments. The record of conviction, or a certified copy thereof certified by the clerk of the court or by the judge in whose court the conviction is had, shall be conclusive evidence of such conviction.

(b) When the license has been secured or attempted to be secured by fraud or deceit practiced upon the board.

(c) For unethical conduct or unprofessional conduct.

(d) Advertising professional superiority in a manner that is false, fraudulent, deceptive or misleading.

(e) Practicing the fitting or dispensing of hearing aids instruments under a false or alias name other than a legal business entity name.

(f) ~~Failure to actively practice the art of fitting and dispensing of hearing aids for a period of three consecutive years.~~

~~(g) For any cause for which the board might refuse to admit a candidate to examinations.~~

~~(h) For violation of any of the provisions of this act or any rule and regulation adopted hereunder.~~

(g) For negligent or incompetent practice or supervision.

New Sec. 18. (a) The board, in addition to any other penalty authorized under this act may assess an administrative fine, after notice and an opportunity to be heard in accordance with the Kansas administrative procedures act, against a licensee or an unlicensed person for a violation of any provision of this act or any rule and regulation hereunder in an amount not to exceed \$1,000 per violation.

(b) If the board determines that an individual has practiced fitting or dispensing of hearing instruments without a valid license, in addition to any other penalties imposed by the law, the board in accordance with the Kansas administrative procedure act, may issue a cease and desist order against such individual.

(c) Whenever in the judgment of the board any person has engaged, or is about to engage, in any acts or practices which constitute or will constitute a violation of the hearing instrument act, the board may make application to any court of competent jurisdiction for an order enjoining such acts or practices, and upon a showing by the board that such person has engaged or is about to engage in any such acts or practices, an injunction, restraining order or such other order as may be appropriate shall be granted by such court without bond.

(d) In all matters pending before the board, the board shall have the option to censure the licensee in lieu of other disciplinary action.

(e) In all matters pending before the board, the board shall have the

power to revoke the license of any licensee who voluntarily surrenders such person's license pending investigation of misconduct or while charges of misconduct against the licensee are pending or anticipated.

(f) This section shall be part of and supplemental to the hearing instrument act.

Sec. 19. K.S.A. 74-5819 is hereby amended to read as follows: 74-5819. No person may:

(a) Sell, barter or offer to sell or barter a license ~~or certificate~~.

(b) Purchase or procure by barter a license ~~or certificate~~ with intent to use it as evidence of the holder's qualification to practice the fitting and dispensing of hearing aids.

(c) Alter materially a license ~~or certificate with fraudulent intent~~.

(d) Use or attempt to use as a valid license ~~or a certificate~~ a license which has been purchased, fraudulently obtained, counterfeited or materially altered.

(e) Willfully make a false, material statement in an application for ~~registration~~ a Kansas license or for renewal ~~or reinstatement~~ of a Kansas license ~~or certificate~~.

(f) *Sell through the mail, courier or delivery service, internet, telephonically or electronically hearing instruments without prior fitting and testing by a licensee except for a replacement of a hearing instrument that was previously fitted and tested by a licensee.*

Sec. 20. K.S.A. 74-5820 is hereby amended to read as follows: 74-5820. Before any ~~certificate or~~ license may be suspended ~~or~~, revoked pursuant to K.S.A. 74-5818 and amendments thereto ~~or other disciplinary action taken~~, the board shall give the licensee ~~or certificate holder~~ notice and an opportunity to be heard in accordance with the provisions of the Kansas administrative procedure act. ~~The suspension or revocation of any certificate or license of registration suspended or revoked for any of the above causes except those specified in K.S.A. 74-5808, and amendments thereto, may be set aside upon application of the holder of such certificate or license at any time within six months from the date of such suspension or revocation, upon proof being made to the satisfaction of the board that the cause of such suspension or revocation no longer exists and that the applicant has been sufficiently punished. The board shall not suspend any certificate or license of registration for a period of more than six months.~~

Sec. 21. K.S.A. 74-5821 is hereby amended to read as follows: 74-5821. ~~Beginning on the first day of July, 1969,~~ In addition to the payment of the ~~certificate or~~ license renewal fee, each ~~hearing aid dealer~~ licensee applying for the renewal of his ~~certificate or~~ ~~or reinstatement of a~~ license shall furnish to the ~~secretary executive officer~~ of the board satisfactory evidence that ~~he such person~~ has attended at least two days of the annual education program as conducted by the board, or similar training school conducted by the various manufacturers for their representatives or periodic training sessions conducted by the national society of hearing aid ~~dealers~~ *obtained the required number of hours of continuing education as established by rules and regulations of the board* in the year just preceding such application for the renewal of his certificate. ~~The secretary-treasurer of the board shall send a written notice to this effect to every person holding a valid certificate or license of registration to practice the fitting and dispensing of hearing aids within the state at least thirty (30) days prior to the first day of July in each year, directed to the last known address of such licensee or reinstatement of the license.~~

In the event that any licensee shall fail to meet such annual educational requirement, ~~his license may be suspended or withheld~~ *the license shall be denied*. The board of examiners may reinstate such licensee to practice the fitting and dispensing of hearing aids upon the presentation of satisfactory evidence of educational study of a standard approved by the board, and upon the payment of all fees due, ~~which in no event shall apply to licensees residing and practicing in other states.~~

Sec. 22. K.S.A. 74-5823 is hereby amended to read as follows: 74-5823. This act *and the act of which this section is amendatory* shall be known and may be cited as the "hearing aid instrument act."

Sec. 23. K.S.A. 74-5801, 74-5802, 74-5804, 74-5805, 74-5806, 74-5807, 74-5808, 74-5809, 74-5810a, 74-5811, 74-5812, 74-5813, 74-5814, 74-5815, 74-5816, 74-5818, 74-5819, 74-5820, 74-5821 and 74-5823 are hereby repealed.

Sec. 24. This act shall take effect and be in force from and after its

publication in the statute book.

Approved April 14, 2006.
