

## CHAPTER 22 - HEARING AID DEALERS AND FITTERS BOARD

### SUBCHAPTER 22A - BOARD RULES

#### SECTION .0400 – DEFINITIONS

##### 21 NCAC 22A .0401 DEFINITIONS AND INTERPRETATIONS

(a) The rules of statutory construction concerning number and gender as contained in G.S. 12 3(1) shall be applied in the construction of these Rules.

(b) The definitions contained in the Food and Drug Administration Standards concerning Hearing Aid Devices, Title 21 of the Code of Federal Regulations Part 801.420, as published in the 42nd Volume of the Federal Register (February 15, 1977) page 9294 are incorporated herein by reference, not including subsequent amendments or editions of the referenced materials, with the following additions and amendments:

(1) "Reconditioned" shall mean that the condition of the hearing aid is the same as a used hearing aid.

(2) "Audiologist" shall mean any individual holding a valid non temporary license as an audiologist issued by the North Carolina Board of Examiners for Speech and Language Pathologists and Audiologists.

(c) The definitions cited in this Section shall serve as interpretations for terms appearing in Chapter 93D of the General Statutes of North Carolina and in these Rules.

(1) "Advertising" means a written or oral communication that is published, disseminated, circulated, or placed before the public for the purpose of attracting public attention to a product, business, or service.

(2) "Apprentice" means an individual who holds a valid Board-issued apprentice registration certificate to fit and sell hearing aids under the supervision of a Registered Sponsor.

(3) "Audiometer" means an electronic device used for air conduction testing, bone conduction testing and obtaining speech audiometry results, that contains a masking circuit, at least one VU meter, and capability of sound field output.

(4) "Direct supervision" means the Registered Sponsor shall be present in the office suite and immediately available to furnish assistance and direction to the Apprentice. It does not mean that the Registered Sponsor must be present in the room with the Apprentice when the Apprentice is fitting and selling hearing aids or completing associated contracts or other paperwork.

(5) "Duly made application" means a completed application received in the office of the Board, including all required documents, photographs, fees, and supplemental information requested in the application.

(6) "General supervision" means the Apprentice is under the Registered Sponsor's overall direction and control, but the Registered Sponsor's presence is not required when the Apprentice is fitting and selling hearing aids or completing associated contracts or other paperwork. Under general supervision, the training of the Apprentice, including instruction, consultation and on-site inspection and evaluation of the Apprentice's work, and the maintenance of the necessary equipment and supplies are the continuing responsibility of the Registered Sponsor.

(7) "One full year of apprenticeship" means that an apprentice satisfies each of the following requirements within 24 consecutive months from the date of issuance of the initial apprentice registration certificate:

(A) works under the supervision of a Registered Sponsor for a minimum of 27 clock hours per week for a period of 50 weeks; and

(B) holds a valid apprentice registration certificate for a period of 365 calendar days.

(8) "Personal supervision" means the Apprentice is under the Registered Sponsor's specific direction and control for training and instruction, and the Registered Sponsor, or a North Carolina licensed Hearing Aid Specialist approved by the Registered Sponsor, shall be in attendance in the room with the Apprentice during:

(A) the evaluation or measurement of the powers or range of human hearing by means of an audiometer or by other means;

(B) the consequent selection or adaptation or sale or rental of hearing aids intended to compensate for hearing loss;

(C) the making of an impression of the ear; and

- (D) the completion of any associated contracts and other paperwork.
- (9) "Registered Applicant" means any individual, including an apprentice, approved and registered to sit for the next scheduled licensing exam.
- (10) "Registered Sponsor" means a person with a permanent license as an audiologist under Article 22 of Chapter 90 of the General Statutes who is registered in accordance with G.S. 93D-3(c)(16), or a licensee of the Board who has been approved as a sponsor of an apprentice.

*History Note: Authority 93D 3(c); 93D 9; 150B 14; Eff. September 1, 2013; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

### **section .0500 – fees and applications**

#### **21 NCAC 22A .0501 FEE SCHEDULE**

The Board hereby establishes the following fees:

(1) Application for registration as an apprentice	\$100.00
(2) Renewal of apprentice registration	\$150.00
(3) Application for registration of a Registered Sponsor not otherwise licensed by the Board	\$150.00
(4) Application for a license	\$250.00
(5) Examination fee	\$300.00
(6) Issuance of certificate of license after successfully passing examination	\$ 25.00
(7) To reissue a suspended license more than 90 days after but not more than two years after license suspended	\$200.00
(8) Annual license renewal	\$250.00
(a) Late fee: 60 days or fewer after license expiration (in addition to renewal fee)	\$ 25.00
(b) Late fee: more than 60 days after license expiration (in addition to renewal fee)	\$ 50.00
(9) For approval of a continuing education program provider	\$ 40.00
(10) Verifying and recording attendance at a continuing education program (per program, per person)	\$ 15.00
(11) For a continuing education make up class provided by the Board (per person, per day)	\$ 50.00
(12) For a voluntary apprentice training workshop (per person, per day)	\$ 50.00
(13) For a license examination preparation course provided by the Board (per person, per day)	\$ 50.00
(14) Processing fee for a check on which payment has been refused by the payor bank because of insufficient funds or because the drawer did not have an account at that bank	\$ 25.00

*History Note: Authority G.S. 12 3.1; 25-3-506; 93D 3; 93D-5; 93D-8; 93D-9; 93D-11; 93D-13; Temporary Adoption Eff. July 11, 1991, For a Period of 180 Days to Expire on January 7, 1992; Eff. January 1, 1992; Amended Eff. March 1, 2009; March 1, 2007; Recodified from 21 NCAC 22B .0603 Eff. May 1, 2013; Amended Eff. September 1, 2013; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

## **21 NCAC 22A .0502 refunds**

Application fees shall not be refunded for any reason.

*History Note: Authority G.S. 93D-3(c);*

*Eff. April 23, 1976;*

*Amended Eff. May 1, 1988;*

*Recodified from 21 NCAC 22F .0110 Eff. May 1, 2013;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

## **21 NCAC 22A .0503 SUBMISSION OF APPLICATIONS AND FEES**

(a) The Board shall accept a digital image of a signed affidavit or other document required as part of an application as the original when submitted electronically in conjunction with the electronic application.

(b) If an applicant submits an incomplete application, the application shall be classified as "abandoned by the applicant" if after 14 days of the electronic transmission of the application to the Board the application is not a duly made application, as defined in 21 NCAC 22A .0401. The Board shall not apply any fee paid or document submitted for the abandoned application to any other application. It is the responsibility of the applicant and the sponsor, if any, to ensure that all supplemental documents requested in the application are submitted within 14 days if all documents are not electronically submitted with the application. This Rule shall not extend an application deadline set forth in any other rule of this Chapter.

(c) The exam registration deadline shall be 45 days prior to the examination date. An applicant may be denied admission to an exam if an application is submitted after the registration deadline, based on proximity to examination date, availability of space in the examination, and the applicant or the applicant's sponsor's past history of compliance with the Board's rules. An applicant denied admission to an examination due to late registration shall be registered for the next scheduled examination, if otherwise eligible.

(d) No later than 14 days after an apprentice has held a valid apprentice registration certificate for 365 days, the apprentice shall make application to take the next scheduled licensing examination. All apprentices shall reapply for a license by examination within the time prescribed in Paragraph (c) of this Rule each time they take and fail to pass the licensing examination.

(e) No later than 20 days after the date printed on the Official Notice of Examination Results, a registered apprentice who failed to pass the qualifying examination shall make application to renew the apprentice certificate or the sponsor shall submit written notice to the Board that the apprenticeship is being terminated by the current expiration date of the certificate.

(f) The Board shall deny a late duly made application, except as set forth in Paragraph (c) of this Rule.

(g) In computing the time stated in the rules of this Chapter, the day of the act or event shall not be included. The last day of the period shall be included, unless it is a Saturday, Sunday, or a legal holiday, in which event the period runs until the end of the next day that is not a Saturday, Sunday, or a legal holiday.

*History Note: Authority G.S. 25-3-506; 93D-3(c); 93D-5; 93D-9;*

*Eff. April 23, 1976;*

*Amended Eff. August 1, 2012; February 1, 1996; January 1, 1992; May 1, 1988;*

*Recodified from 21 NCAC 22F .0103 Eff. May 1, 2013;*

*Amended Eff. December 1, 2014; September 1, 2013;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

## **SUBCHAPTER 22B RULE MAKING PROCEDURES**

### **SECTION .0100 PETITIONS FOR RULE MAKING**

#### **21 NCAC 22B .0101 PETITIONS**

In accordance with G.S. 150B 16, any person desiring the adoption, amendment or repeal of a rule by the Board shall submit a petition to the Board containing the following information:

- (1) Name of board;
- (2) A draft of the proposed rule;
- (3) Reasons for the adoption, amendment or repeal;
- (4) Data supporting the proposed rule;
- (5) The effect of the proposal on existing rules;
- (6) Effects of the proposed rule on persons licensed under Chapter 93D of the General Statutes of North Carolina;
- (7) Names (including addresses if known) of those most likely to be affected by the rule; and
- (8) Name(s) and address(es) of petitioner(s).

*History Note: Authority G.S. 93D 3(c); 150B 12; 150B 16;*

*Eff. April 23, 1976;*

*Amended Eff. May 1, 1988;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

### **SECTION .0300 HEARINGS**

#### **21 NCAC 22B .0302 COMMENTS**

In accordance with G.S. 150B 12 and 150B 16, the record of hearing will be open for receipt of written comments for 30 consecutive days prior to the date of the public rule making hearing. Any interested person may present written or oral comments relevant to the actions proposed at the public rule making hearing or may deliver written comments to the Board office no later than 10:00 a.m. on the day of the hearing. Any person planning to make oral comments is encouraged to submit a written copy of the presentation at or before the time of the public hearing.

*History Note: Authority G.S. 93D 3(c); 150B 12; 150B 16;*

*Eff. April 23, 1976;*

*Amended Eff. May 1, 1988;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

#### **21 NCAC 22B .0307 CONTROL OF HEARINGS**

The presiding officer at the hearing shall have complete control of the proceedings including the allotment of time for oral presentations.

*History Note: Authority G.S. 93D 3(c); 150B 12;*

*Eff. April 23, 1976;*

*Amended Eff. May 1, 1988;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

## **SECTION .0500 DECLARATORY RULINGS**

### **21 NCAC 22B .0501 REQUEST FOR DECLARATORY RULING**

Any person affected by a statute administered by the Board or by a rule promulgated by the Board may request a declaratory ruling as to the validity of a rule or as to the applicability of a statute or rule to a given state of facts. All requests for declaratory rulings shall be in writing and shall contain the following information:

- (1) Name(s) and address(es) of petitioner(s);
- (2) Statute and/or rule to which the petition relates; and
- (3) Concise statement of facts and explanation of the manner in which the petitioner is injured, or thinks he may be injured, by the statute or rule as applied to him.

*History Note: Authority G.S. 93D 3(c); 150B 17;*

*Eff. April 23, 1976;*

*Amended Eff. April 1, 1989; May 1, 1988;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

### **21 NCAC 22B .0503 REFUSAL TO ISSUE DECLARATORY RULING**

In accordance with G.S. 150B 17, the Board may decline to issue a declaratory ruling if any of the following circumstances exist:

- (1) A declaratory ruling would be futile because circumstances have so changed since the promulgation of the rule that the rule no longer serves its original purpose;
- (2) A similar factual situation has been the basis of a contested case;
- (3) The factual situation at issue was specifically considered upon the adoption of the rule being questioned, as evidenced by the rule making record;
- (4) The subject matter of the requested declaratory ruling is involved in a lawsuit pending in a court of this state or a federal court; or
- (5) Failure to comply with the requirements contained in Rule .0501 of this Section.

*History Note: Authority G.S. 93D 3(c); 150B 17;*

*Eff. April 23, 1976;*

*Amended Eff. May 1, 1988;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

## **SUBCHAPTER 22F - LICENSING PROVISIONS**

### **SECTION .0100 - EXAMINATION**

#### **21 NCAC 22F .0101 TIME AND PLACE OF EXAMINATIONS**

The Board shall publicize the time and place of each qualifying examination given pursuant to G.S. 93D-8 on the Board's website at least 90 days in advance of the examination.

*History Note: Authority G.S. 93D-3(c); 93D-8;*

*Eff. April 23, 1976;*

*Amended Eff. March 1, 2013; June 1, 2012; January 1, 1992; May 1, 1988.*

## **21 NCAC 22F .0104 QUALIFICATIONS to REGISTER FOR EXAM**

- (a) The Board may require supplemental information for applications to determine the qualifications of each licensee, registered applicant, and registered apprentice, as set forth in these Rules and in Chapter 93D of the General Statutes of North Carolina. Supplemental information may include letters of recommendation, affidavits, photographs, official transcripts, and personal appearances before the Board.
- (b) An apprentice may elect to take Part A, Part B, or Part C of the licensing exam at any time during the apprenticeship by submitting an application for license and exam registration prior to the registration deadline.
- (c) An apprentice shall complete 365 days of apprenticeship prior to taking Part D of the licensing exam.
- (d) The Board shall waive the application for license fee and the exam registration fee for an applicant's initial registration to take Part D of the exam only if the applicant took and passed Part A, Part B, and Part C prior to completing 365 days of apprenticeship.
- (e) Except as provided in Paragraph (d) of this Rule, an applicant shall submit a new application for license and exam registration and pay the fees set forth in 21 NCAC 22A .0501 each time the applicant registers for any parts of the licensing exam.
- (f) The Board shall not prorate the application for license fee or the exam registration fee for retesting an applicant who failed any part of the licensing exam.

*History Note: Authority G.S. 93D-3(c); 93D-5; 93D-6; 93D-9;  
Eff. April 23, 1976;  
Amended Eff. February 1, 1996; April 1, 1989; May 1, 1988;  
Paragraph (d) recodified to 21 NCAC 22F .0122 Eff. May 1, 2013;  
Temporary Amendment Eff. February 10, 2014;  
Amended Eff. April 1, 2014.*

## **21 NCAC 22F .0105 PASSING EXAMINATION**

- (a) The exam consists of four parts:
- (1) Part A shall assess applicant's knowledge of hearing testing through a computer simulation program;
  - (2) Part B shall assess applicant's practical knowledge and ability to make an ear impression;
  - (3) Part C shall assess the applicant's knowledge of relevant laws and regulations governing hearing aid specialists; and
  - (4) Part D shall assess the applicant's knowledge of the following:
    - (A) audiometry;
    - (B) anatomy and physiology pertaining to the dispensing of hearing aids;
    - (C) hearing aids;
    - (D) hearing aid technologies; and
    - (E) the scope of practice for hearing aid specialists.
- (b) The Board shall annually review the contents and outcome of the previous qualifying examinations and shall determine the minimum performance criteria required for passing the examination. In accordance with G.S. 93B-8(a), each registered applicant shall be informed in writing of the requirements for passing the examination prior to the applicant taking the examination.
- (c) An applicant shall pass all parts of the exam in order to receive a license.
- (d) For a registered applicant who completes "one full year of apprenticeship," as defined in 21 NCAC 22A .0401, all exam results shall expire 31 months after the date of initial issuance of the apprentice certificate.
- (e) If a registered applicant is exempt from the apprenticeship requirement, or takes an exam more than 31 months after the date of initial issuance of the apprentice certificate, the exam results shall expire 19 months after the date of the exam.

*History Note: Authority G.S. 93B-8; 93D-1.1; 93D-3(c); 93D-8;  
Eff. April 23, 1976;  
Amended Eff. May 1, 1988;  
Temporary Amendment Eff. February 10, 2014;  
Amended Eff. February 1, 2015; April 1, 2014.*

## **21 NCAC 22F .0107 COMMUNICATION OF RESULTS OF EXAMINATIONS**

- (a) The office of the Board shall issue written notification concerning the applicant's performance on the qualifying examination to each registered applicant by mailing exam results to the mailing address provided by the applicant.
- (b) A copy of the applicant's exam results shall be mailed to the applicant's Registered Sponsor at the mailing address on file with the Board at the same time the results are mailed to the applicant.
- (c) The deadline for the Board to mail exam results shall be 30 days after the examination.
- (d) The written notification shall be titled "Official Notice of Examination Results" with the date of the notice printed below the title.

*History Note: Authority G.S. 93B-8; 93D-3(c);*

*Eff. April 23, 1976;*

*Amended Eff. December 1, 2014; September 1, 2013; June 1, 2012; February 1, 1996; May 1, 1988.*

## **21 NCAC 22F .0108 REVIEW OF EXAMINATION**

- (a) As set forth in G.S. 93B-8(c) each registered applicant who takes and does not pass the qualifying examination shall be granted an opportunity to review the failed portion of the examination that is in the custody and control of the Board in the presence of a representative of the Board, upon written request from the applicant.
- (b) An applicant shall make a written request by completing the electronic form available on the Board website. The written request shall include the applicant's name and Exam ID number, contact phone number, e-mail address, and dates available for a review appointment.
- (c) The deadline to request an exam review shall be 20 days after the date printed on the Official Notice of Examination Results.
- (d) The Board shall conduct exam reviews at the Board's office by appointment.

*History Note: Authority G.S. 93B 8; 93D 3(c);*

*Eff. April 23, 1976;*

*Amended Eff. December 1, 2014; October 1, 2013; February 1, 1996; January 1, 1992; May 1, 1988.*

## **21 NCAC 22F .0121 REINSTATEMENT OF AN EXPIRED LICENSE**

- (a) For those applicants seeking reinstatement of a license that has been expired for more than 60 days but less than five years, the applicant may satisfy the Board's requirement for annual continuing education as a condition for license renewal by taking and passing the Board's qualifying examination.
- (b) For those applicants seeking reinstatement of a license that has been expired for five or more years, evidence of satisfactory completion of the Board's annual continuing education requirement shall consist of the applicant taking and passing the Board's qualifying examination.
- (c) If the applicant cited in Paragraph (b) of this Rule has continuously held a valid license to fit and sell hearing aids in another State or jurisdiction for the five consecutive years prior to seeking North Carolina license reinstatement, that individual shall be required to take and pass only the portion of the Board's qualifying examination that addresses regulatory issues.

*History Note: Authority G.S. 93D-3(c); 93D-11;*

*Eff. February 1, 1996.*

## **21 NCAC 22F .0122 reciprocity**

Whereas the Board is not compelled to issue any license pursuant to G.S. 93D-6, the Board shall not issue a license by reciprocity.

*History Note: Authority G.S. 93D-3(c); 93D-5; 93D-6; 93D-9;*

*Recodified from 21 NCAC 22F .0104(d) Eff. May 1, 2013.*

## section .0200 - continuing education

### 21 NCAC 22F .0201 Continuing education definitions

The following definitions apply to the Rules contained in this Section:

- (1) "CE Program" means a continuing education presentation where attendance is monitored and the participants are required to be present at one or more designated physical locations. The CE Program shall consist of sessions which may be eligible for Board-approved CEU credit. A CE Program may be televised or conducted via the internet only if participants must be at a designated location where attendance is monitored by the CE Program provider.
- (2) "CEU accrual period" means the calendar year (January 1 through December 31) immediately preceding the March license renewal deadline.
- (3) "CEU reporting deadline" means the tenth day of January which immediately follows the CEU Accrual Period.
- (4) "CEU Verification Report" means the electronic form available on the Board website ([www.nchalb.org](http://www.nchalb.org)) for recording CEU credits earned to satisfy the license renewal requirement.
- (5) "Continuing Education Unit" (CEU) means the reporting unit used in calculating approved continuing education hours. One-tenth of a CEU (0.10) equals one hour of approved instruction. Ten hours of approved instruction equals 1.00 CEU credit. The Board-approved CEU credits are recorded to two decimal points (for example, a session conducted for two hours would be recorded as 0.20 CEU).
- (6) "Educational objective" means a statement of the working knowledge or understanding of presented content that a participant should attain upon completion of the session.
- (7) "Hour" means a full clock hour (60 minutes) of instruction and learning, excluding any time allowed for any other activity such as meals, breaks, or business or committee meetings.
- (8) "Program application" means the Board's official application for the purpose of program review for Board-approved CEU credit, which is available on the Board website.
- (9) "Presentation format" means the teaching method utilized to impart information to the participants (for example, lecture, panel discussion, demonstration, practicum, or debate).
- (10) "Report of Attendance" means the official attendance verification form entitled "Continuing Education Report of Program Attendance," which is available on the website in generic form and in specific form for approved programs and self-study.
- (11) "Self-study" means independently completed internet-based activities or events provided by the Board, or approved by the International Institute for Hearing Instruments Studies (IIHIS), American Speech-Language-Hearing Association (ASHA), or American Academy of Audiology (AAA), for at least one hour of credit that includes an internet-presented examination pertaining to the content of the self-study session. Self-study may be:
  - (a) live, online presentations;
  - (b) prerecorded, downloaded presentations; or
  - (c) text-based, downloaded readings.
- (12) "Session" means an instructional or learning event, with at least two primary educational objectives pertaining to a single Board topic content category, and a specific amount of time allotted for accomplishing the specified objectives.
- (13) "Topic Content Categories" means a system to separate Board-approved sessions by content. "Category 1" is for amplification and hearing rehabilitation issues. "Category 2" is for hearing loss, regulations, and consumer-related issues. "Category 0" is assigned to unapproved sessions in a program when other sessions in the program are approved.

*History Note: Authority G.S. 93D-3(c); 93D-11;  
Eff. September 1, 2013.*



## **21 NCAC 22F .0202 Annual Continuing education requirements**

(a) A licensee shall complete and record with the Board ten hours (1.00 CEU credit) of Board-approved continuing education annually, including at least five hours (0.50 CEU credit) classified as Category 1 in accordance with Rule .0203 of this Section.

(b) The CEU Accrual Period for each license renewal shall be the calendar year preceding license renewal. CEU credit cannot be carried over from one CEU Accrual Period to the next, even if the CEU credit earned exceeds the license renewal requirement.

(c) An individual who passes the licensing exam during a CEU Accrual Period shall have satisfied the continuing education requirement for the corresponding license renewal.

*History Note: Authority G.S. 93D-3(c); 93D-11;  
Eff. September 1, 2013;  
Amended Eff. October 1, 2016.*

## **21 NCAC 22f .0203 CONTENT CATEGORIES**

(a) Sessions assigned to Category 1 or Category 2, as described herein, satisfy the continuing education requirement for license renewal. Category 0 sessions, as described herein, do not satisfy any part of the continuing education requirement.

(b) Category 1 is for amplification and hearing rehabilitation issues, and shall be assigned to continuing education sessions which are comprised of the following topics:

- (1) hearing aid technology: instrument circuitry and acoustic performance data;
- (2) earmold or shell coupling systems: design, selection, modifications, and ear impressions;
- (3) hearing aid selection procedures, verification, fitting and adjustment techniques, and servicing or repairs; and
- (4) aural rehabilitation using amplification: auditory training, hearing aid orientation and counseling techniques, and hearing aid validation techniques.

(c) Category 2 is for hearing loss, regulations, and consumer-related issues, and shall be assigned to continuing education sessions which are comprised of the following topics:

- (1) biological, physical, and behavioral bases underlying normal and pathological hearing processes;
- (2) detection, assessment, or monitoring of hearing impairment (such as measurement techniques and test interpretation), including intraoperative monitoring;
- (3) cochlear implants or implantable hearing devices;
- (4) central auditory processing;
- (5) assistive listening devices, including FM Systems and ancillary wireless devices;
- (6) techniques for development of speech and language in children with hearing loss, or augmentative and alternative communication strategies for children or adults with hearing loss;
- (7) cerumen management, dizziness, or tinnitus as it directly pertains to persons with hearing loss;
- (8) hearing impaired consumers' views of the hearing health care industry and consumer complaints;
- (9) infection control issues for the hearing health care profession;
- (10) professional conduct and regulatory issues pertaining to the fitting and selling of hearing aids; and
- (11) hearing aid business practices such as hearing aid office management, sales contracts, and hearing aid marketing or industry trends.

(d) Category 0 shall be assigned to all unapproved sessions in a continuing education program, including sessions comprised of the following programs, activities and topics:

- (1) financial planning unrelated to the fitting or programming of hearing instruments;
- (2) computer training unrelated to the fitting or programming of hearing instruments;
- (3) employment contracts;
- (4) balance mechanism or tinnitus, if not directly pertaining to persons with hearing loss;
- (5) cerumen management, if not directly pertaining to persons with hearing loss;
- (6) training designed for license examination preparation;
- (7) factory tours, poster sessions, open forum sessions, and poster-type sessions conducted at a CE Program where participants are free to determine the amount of time that they interact with multiple presenters; and
- (8) all other topics not listed as approved for Category 1 or Category 2.

*History Note: Authority G.S. 93D-3(c); 93D-11;  
Eff. September 1, 2013.*

#### **21 NCAC 22F .0204 CE PROGRAM APPLICATION**

- (a) Any individual or program sponsor shall submit a program application to the Board to request Board-approved CEU credit for a CE program. The person designated on the Board's program application as the program's applicant shall receive all Board communication related to program submission and approval.
- (b) The applicant shall complete and submit a duly made application prior to the Board's evaluation of the program for approval. A duly made application shall consist of responses to all information requested on the application form, the required application fee in accordance with Rule 21 NCAC 22A .0501, a copy of the published program announcement and the published time-ordered program agenda listing the exact time that each session begins and ends, which sessions are divided into parts, and scheduled breaks.
- (c) The Board shall use the initial duly made application to determine Board-approved CEU credit for the program. The initial program applicant shall be responsible for the accuracy of the submitted information. If a subsequent application for the same CE program is received by the Board from another applicant, the Board shall respond by providing either a copy of the Board's written notification of approval or denial of the initial application, or written notice of the status of the initial application.
- (d) A program sponsor may seek prior approval for a CE Program or submit a program application after the CE program date. CE Program sessions shall not be advertised as "approved by the Board" until Board approval is granted. Prior to Board approval, published announcements shall state that "sessions have been submitted for approval."
- (e) The Board will accept one program application for a series of CE Programs if:
- (1) the initial program starting date is more than 30 days after the Board receives submission of the duly made application;
  - (2) identical content will be presented at each program on different dates or at different locations during the same calendar year; and
  - (3) all program dates and locations are listed on the application.
- (f) The Board shall not accept a program application for a series of identical CE Programs submitted after the starting date of a program in the series pending approval. A separate program application is required for each program that has already occurred. Future program dates in the series may be combined on one application as set forth in Paragraph (e) of this Rule.
- (g) A licensee shall submit to the Board a signed Report of Attendance with the program application when seeking Board approval for a program after the program date.
- (h) The program sponsor shall submit to the Board a program application with a roster of licensees who attended a CE Program when seeking Board approval for a program after the program date.
- (i) The deadline to submit a program application shall be the 10th day of January following the calendar year in which the program was offered.

*History Note: Authority G.S. 93D-3(c); 93D-11;  
Eff. September 1, 2013.*

#### **21 NCAC 22F .0205 CONTENT APPROVAL PROCESS**

- (a) The Board shall use the start date of a program to determine the CEU Accrual Period assigned to Board-approved CEU credit. The Board shall deny CEU credit for a program when the program application does not list the date and location of the program.
- (b) In order for the Board to assign CEU credit, each program application received by the Board shall subdivide the CE Program into sessions classified according to the Topic Content Categories set forth in Rule .0203 of this Section. The Board shall evaluate sessions for approval using the following criteria:
- (1) the content of a session;
    - (A) educational objectives clearly demonstrate relevance to the fitting and selling of hearing aids;
    - (B) presentation enhances a practitioner's knowledge of issues relating to the fitting and selling of hearing aids; and
    - (C) format includes time for questions and answers;
  - (2) the length of each session and published breaks;
    - (A) no credit shall be offered for any session less than one full hour;

- (B) for sessions lasting longer than one hour, 0.05 CEU credit shall be issued for each additional full half-hour increment (a session lasting one hour and 45 minutes shall be issued 0.15 CEU);
  - (C) any session lasting more than three hours shall include a published break, lasting at least 15 minutes, or the session shall be eligible for a maximum of 0.30 CEU credit;
  - (D) for every three hours of continuous presentation time (regardless of the number of sessions presented during that time interval), a published break must be provided in order for any additional program sessions to be eligible for CEU credit; and
  - (E) if a session is divided into parts, all such parts must pertain to the same Board topic content category. No single part may be of a duration of less than one hour. The session shall be clearly listed in the published program agenda as being divided into parts with attendance required at all parts in order to receive CEU credit. A session is considered to be divided into parts if there is a published break scheduled to interrupt the session during the CE Program; and
- (3) the way in which attendance is monitored;
- (A) the program provider shall have a program representative verify attendance at each session of a CE Program;
  - (B) a speaker or facilitator shall be present to actively interact with the participants and monitor attendance for sessions relying primarily on prerecorded (audio or video) materials or computer-generated presentations;
  - (C) there shall be an announced means for participants to ask questions during each session for all televised or telephone distance learning presentations; and
  - (D) the published program announcement shall state that a program representative will be present at each distance learning site to monitor attendance.
- (c) The Board shall post the processing and approval status of an application on the Board website in addition to posting a CE Program Report of Attendance for each approved CE Program which shows the Board-approved CEU credit for each session of the program.

*History Note: Authority G.S. 93D-3(c); 93D-11;  
Eff. September 1, 2013.*

**21 NCAC 22f .0206 APPEALS AND CE PROGRAM modification**

- (a) Only the initial applicant shall possess the right to appeal the decision of the Board. The applicant's appeal shall include a written statement and any supplemental documentation to support the appeal. The appeal shall be submitted prior to the end of the CEU Accrual Period for the program. The Board shall review the appeal using Rule 21 NCAC 22F .0205 to determine program approval. The Board shall respond in writing to the applicant within 30 days. An applicant who is not satisfied with the Board decision after the appeal may request an administrative hearing in accordance with 21 NCAC 22L .0103.
- (b) The program sponsor shall submit documentation to the Board within 30 days after the CE completion date regarding any modifications to a program approved by the Board, and shall notify program participants that approved CEU credit is subject to change due to modifications in the agenda.
- (c) The program sponsor shall write all program modifications in the appropriate section on the Report of Attendance and sign the form in the area designated for CE Program modifications if any session of an approved CE program is modified after publication of the program announcement or after submission of the program application to the Board.
- (d) The Board may modify its approval of sessions and the CEU credit allowed when a program is changed after receiving Board approval. The Board shall update the program status on the website to reflect CEU credit changes.
- (e) The program applicant shall submit a new program application if:
  - (1) the Board approved a CE Program for multiple dates and the content or duration of the CE Program changes after one or more of the approved program dates have occurred. The remaining program dates shall constitute a new CE Program; or
  - (2) the program sponsor offers a pre-approved CE Program on additional dates. The additional date(s) shall constitute a new CE Program, unless the program sponsor notifies the Board within 20 days of the canceled CE Program's date that a different date has been substituted.

*History Note: Authority G.S. 93D-3(c); 93D-11;  
Eff. September 1, 2013;  
Amended Eff. December 1, 2014.*

#### **21 NCAC 22F .0207 RECORDING CEU CREDIT**

- (a) A licensee shall have proof of attendance in order to record CEU credit with the Board:
- (1) For pre-approved CE Programs, the program sponsor shall provide each licensee in attendance with the approved CE Program Report of Attendance. At the conclusion of each session, the program sponsor's representative or the session speaker shall sign the CE Program Report of Attendance of each licensee in attendance in the space provided for attendance verification. Alternatively, a program sponsor may initial or rubberstamp the space for session attendance verification after each session and then sign the bottom of each page of the Report of Attendance at the end of the program; or
  - (2) If the CE Program is not pre-approved, the licensee shall print a generic CE Program Report of Attendance from the Board website and take it to the program to complete the session titles as listed on the program sponsor's agenda presented to participants on the day of the continuing education event. The licensee shall obtain the hand-written signature of the program sponsor's representative or the session speaker on the Report of Attendance at the end of each session.
- (b) The program applicant shall submit a roster of licensees who attended a CE Program no later than 30 days following completion of a pre-approved CE Program:
- (1) If the program applicant is recording CEU credit with the Board on behalf of licensees, the payment of the recording fee as set forth in Rule 21 NCAC 22A .0501 and an original Report of Attendance for each licensee shall accompany the submission of the roster; or
  - (2) If licensees are responsible for recording CEU credit with the Board, including paying the recording fee, the program applicant shall provide the original signed Report of Attendance form to each licensee at the end of the program, and shall submit only the roster.
- (c) The Board shall accept the Board form entitled "Continuing Education Report of Program Attendance" for attendance verification when recording CEU credit. The Board shall reject certificates of attendance issued by any entity other than the Board as proof of attendance or as verification of CEU credit earned.
- (d) A licensee shall record CE Program CEU credit with the Board by submitting all of the following:
- (1) an electronic CEU Verification Report;
  - (2) an original Report of Attendance; and
  - (3) a recording fee for each CE Program as set forth in Rule 21 NCAC 22A .0501.
- (e) A licensee shall record self-study CEU credit with the Board as set forth in Rule .0208 of this Section.
- (f) The Board shall accept an electronic image of the Report of Attendance as the original Report of Attendance when submitted electronically in conjunction with a CEU Verification Report or a roster.
- (g) A licensee shall record sufficient Board-approved CEU credit to satisfy the continuing education requirement for license renewal by the CEU reporting deadline, which is the 10th day of January immediately following the CEU Accrual Period.
- (h) A licensee's failure to record sufficient CEU credit with the Board by the CEU reporting deadline shall be grounds for disciplinary action.

*History Note: Authority G.S. 93D-3(c); 93D-11; 93D-13;  
Eff. September 1, 2013.*

#### **21 NCAC 22F .0208 SELF-STUDY**

- (a) Self-study may be completed to satisfy up to five hours of the continuing education requirement during each CEU Accrual Period.
- (b) Each self-study event shall be one session and up to five sessions completed in the same CEU Accrual Period may be reported on one self-study Report of Attendance as a self-study program.
- (c) A licensee shall record self-study CEU credit with the Board by submitting all of the following:
- (1) an electronic CEU Verification Report;
  - (2) a completed self-study Report of Attendance;
  - (3) an official transcript listing the licensee's score of 80 percent or greater on an Internet-presented examination pertaining to the content of the self-study activity; and

- (4) the recording fee as set forth in Rule 21 NCAC 22A .0501 for each self-study program.
- (d) The Board shall accept electronic images of the self-study Report of Attendance and official transcripts when submitted electronically in conjunction with the CEU Verification Report.

*History Note: Authority G.S. 93D-3(c); 93D-11;  
Eff. September 1, 2013;  
Amended Eff. January 1, 2017.*

#### **21 NCAC 22F .0209 CONTINUING EDUCATION RECORDS**

- (a) The Board shall maintain a cumulative record of the CEU credit recorded for each licensee during the three most recent CEU Accrual Periods.
- (b) A summary of recorded CEU credits may be viewed on the Board website. A request for a full copy of a licensee's CEU record, including copies of the original forms submitted for the three most recent CEU Accrual Periods, is subject to the provisions of G.S. 132-6.
- (c) The Board shall destroy all records of program applications and CEU credits reported to the Board no sooner than five years after such records are received by the Board.

*History Note: Authority G.S. 93D-3(c); 93D-11; 93D-13;  
Eff. September 1, 2013.*

### **SECTION .0300 – APPRENTICESHIPS**

#### **21 NCAC 22F .0301 APPRENTICESHIP REQUIREMENTS**

- (a) An individual who seeks a license under G.S. 93D shall complete "one full year of apprenticeship" as defined in 21 NCAC 22A .0401, unless the individual is eligible for waiver of the apprenticeship requirement under G.S. 93D-5(c).
- (b) Under the supervision of the proposed sponsor, an individual shall complete the apprentice registration application and pay the fee as set forth in 21 NCAC 22A .0501.
- (c) An apprentice may perform duties within the scope of practice for a Hearing Aid Specialist under the registered sponsor's supervision only after the apprentice certificate is approved and posted on the Board's website.
- (d) For an apprenticeship issued prior to the effective date of this Rule, the registered sponsor shall provide general supervision to the apprentice until the expiration date of the apprentice certificate. For any renewal of an apprenticeship or issuance of an apprenticeship after the effective date of this Rule, the registered sponsor shall provide supervision in accordance with 21 NCAC 22F .0302.

*History Note: Authority G.S. 93D-1.1; 93D-3(c); 93D-5; 93D-9;  
Eff. April 1, 2014.*

#### **21 NCAC 22F .0302 SPONSOR'S DUTIES**

- (a) The registered sponsor shall assist the apprentice in submitting all required applications and reports of the apprenticeship experience and shall act as a liaison between the Board and the apprentice.
- (b) In accepting an apprentice, the registered sponsor shall be responsible for the conduct of the apprentice in his performance of his duties as an apprentice.
- (c) The registered sponsor shall provide an apprentice personal supervision until receiving an Official Notice of Examination Results confirming that the apprentice successfully passed Part A, Part B, and Part C of the licensing exam, and then the registered sponsor shall provide an apprentice general supervision for the remainder of the apprenticeship. A registered sponsor providing general supervision may incorporate direct or personal supervision at the discretion of the registered sponsor. General, direct, and personal supervision are specifically defined in 21 NCAC 22A .0401.
- (d) The registered sponsor shall provide apprentice training and supervision in the following areas:
- (1) anatomy, physiology, and pathology of the auditory mechanism;
  - (2) measurement techniques and test interpretation for assessment of hearing impairment and hearing handicap;

- (3) hearing aid technology including instrument circuitry and acoustic performance data;
  - (4) design, selection, and modification of earmold or shell coupling systems;
  - (5) hearing aid selection procedures and fitting, verification, and adjustment techniques;
  - (6) post-delivery care including hearing aid orientation and counseling techniques and hearing aid servicing;
  - (7) ethical conduct and regulatory issues concerning the fitting and selling of hearing aids; and
  - (8) all areas within the scope of practice as defined in G.S. 93D-1.1.
- (e) Failure by a registered sponsor to properly train or supervise an apprentice shall be grounds for disciplinary action after proper notice and hearing as set forth in Subchapter 22L.

*History Note: Authority G.S. 93D-1.1; 93D-3(c); 93D-9; 93D-13;  
Eff. April 1, 2014.*

### **21 NCAC 22F .0303 CERTIFICATE EXPIRATION**

- (a) The initial apprentice registration certificate, and any subsequently issued replacement certificates issued within the first year of apprenticeship, shall expire after the apprentice has held a valid certificate for a total of 365 days.
- (b) When an apprentice registers for the licensing examination in accordance with 21 NCAC 22A .0503(d), the Board shall extend the apprentice registration certificate, at no additional charge to the apprentice. The extended certificate shall expire 30 days after the date on the Official Notice of Examination Results for the apprentice.
- (c) An apprentice registration certificate obtained by renewal in accordance with 21 NCAC 22A .0501(2) shall expire 30 days after the date on the Official Notice of Examination Results of the next available exam.

*History Note: Authority G.S. 93D-3(c); 93D-5; 93D-9;  
Eff. April 1, 2014.*

### **21 NCAC 22F .0304 EARLY TERMINATION OF APPRENTICESHIP**

- (a) If the apprentice or registered sponsor terminates the apprenticeship for any reason, the apprentice certificate shall be invalid and the apprentice shall cease to perform duties within the scope of practice for a Hearing Aid Specialist until a valid certificate is issued by the Board.
- (b) If the apprentice fails to work at least 27 hours per week for two consecutive weeks during the apprenticeship period, the registered sponsor shall terminate the apprenticeship and notify the Board as provided in Paragraph (c) of this Rule.
- (c) No later than 14 days after termination of the apprenticeship the following shall occur:
  - (1) the apprentice and registered sponsor shall return all copies of the apprentice certificate to the office of the Board;
  - (2) the registered sponsor shall notify the Board in writing of the termination of the apprenticeship; and
  - (3) the registered sponsor and apprentice shall submit a Report of Apprenticeship Experience in accordance with Rule .0305 of this Subchapter.

*History Note: Authority G.S. 93D-1.1; 93D-3(c); 93D-5; 93D-9;  
Eff. April 1, 2014.*

### **21 NCAC 22f .0305 report of apprenticeship experience**

- (a) The Report of Apprenticeship Experience form shall be available on the Board's website ([www.nchalb.org](http://www.nchalb.org)) to report supervised training and one full year of apprenticeship as defined in 21 NCAC 22A .0401 including:
  - (1) contact information for apprentice and registered sponsor;
  - (2) verification of training;
  - (3) verification of at least 27 hours of work per week; and
  - (4) a sworn statement of both the apprentice and sponsor that information submitted to the Board is true and accurate.
- (b) The registered sponsor and the apprentice shall jointly submit a Report of Apprenticeship Experience no later than 14 days following the date that any of the following conditions exist:
  - (1) the apprentice held a valid apprentice registration certificate for 365 days;
  - (2) the apprentice or registered sponsor terminates the apprenticeship for any reason; or

- (3) the Board issues a written request for the submission of a Report of Apprenticeship Experience to the registered sponsor or apprentice.
- (c) If an apprentice or sponsor is not cooperative in completing the joint report, the other party shall submit a report with an explanation by the submission deadline.
- (d) Failure to submit a Report of Apprenticeship Experience as required in this Rule shall be grounds for disciplinary action after proper notice and hearing.

*History Note: Authority G.S. 93D-1.1; 93D-3; 93D-9; 93D-13;  
Eff. April 1, 2014.*

#### **21 NCAC 22f .0306 APPRENTICE DISCIPLINE**

- (a) Apprentices shall comply with the Rules set forth in this Chapter, including the code of ethics as set forth in Subchapter 22J, and with the provisions set forth in Chapter 93D of the General Statutes of North Carolina.
- (b) The Board shall refer all matters on noncompliance to the Committee on Investigations as set forth in Subchapter 22L. The Committee on Investigations shall determine whether sufficient grounds exist to:
  - (1) invalidate an apprentice registration certificate;
  - (2) deny future applications for issuance or renewal of an apprentice registration certificate; or
  - (3) deny, suspend or revoke a license or registration of the Registered Sponsor after proper notice and hearing.

*History Note: Authority G.S. 93D-1.1; 93D-3; 93D-9; 93D-13;  
Eff. April 1, 2014.*

### **SUBCHAPTER 22I PROFESSIONAL AFFAIRS**

#### **21 NCAC 22I .0101 CLIENTS' INTEREST**

In order to serve the best interest of the client, all licensees and registered apprentices shall advise their clients to take the recommended actions as prescribed in 21 CFR 801 (effective August 15, 1977), Subparts 801.420 and 801.421, which are herein adopted by reference in accordance with G.S. 150B 14 (b).

*History Note: Authority G.S. 93D 3(c); 150B 14;  
Eff. April 23, 1976;  
Amended Eff. May 1, 1988;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

#### **21 NCAC 22I .0103 VISUAL INSPECTION AND HEARING TEST**

- (a) All licensees and registered apprentices shall make a visual inspection of the external auditory canal and the tympanic membrane, using a device having its own light source in order to fulfill the requirements of 21 CFR 801.420 concerning the warning to hearing aid dispensers.
- (b) All licensees and registered apprentices shall conduct a hearing test using an audiometer, the calibration for which is on file at the Board office, or equivalent physiologic testing.
- (c) A hearing test shall be conducted within six months prior to the dispensing of a hearing aid and a copy of the hearing test shall be maintained for a period of at least three years.
- (d) The hearing test shall be conducted in an environment conducive to obtaining accurate results and shall include the following, unless physiologic testing is utilized:
  - (1) live voice or recorded voice speech audiometry, including speech reception threshold testing and speech discrimination testing; and
  - (2) pure tone audiometry, including air conduction testing and bone conduction testing as follows:
    - (A) air conduction testing at least at the following frequencies: 500 Hz, 1000 Hz, 2000 Hz, 3000Hz, and 4000 Hz;
    - (B) mid-octave air conduction testing performed when there is a 20 dB or greater difference between any adjacent octaves;

- (C) bone conduction testing at least at the following frequencies: 500 Hz, 1000 Hz, 2000 Hz, and 4000 Hz; and
- (D) effective masking, if audiometric testing reveals a difference between the ears at any one frequency equal to or greater than 40 decibels or if there is audiometric air-bone gap of 15 dB or greater.

(e) All licensees and registered apprentices shall evaluate dispensed products to determine effectiveness and shall maintain documentation of the verification for a period of at least three years. Measures of evaluation shall include at least one of the following:

- (1) sound field measurements;
- (2) real ear measurements; or
- (3) client evaluation sheets.

*History Note: Authority G.S. 93D-1.1; 93D 3(c);*

*Eff. April 23, 1976;*

*Amended Eff. January 1, 2015; November 1, 2013; April 1, 2013; April 1, 1989; May 1, 1988;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

#### **21 NCAC 22I .0106 DISCLOSURE**

(a) In addition to the information required by G.S. 93D 7, all licensees and registered apprentices shall, by the time of delivery of the hearing aid(s), complete one or more written statements of sale containing the following:

- (1) The business name and street address, within the State of North Carolina, of at least one place of business of the seller;
- (2) The name of the person delivering the hearing aid(s) and the name of the person who sold the hearing aid(s);
- (3) The name of the purchasing party, if different from the name of the consumer;
- (4) The date of sale, if different from the date of delivery;
- (5) The model of the hearing aid(s);
- (6) The total cost to the purchaser for all products and services; and
- (7) The serial number of the hearing aid(s).

(b) A copy of all statements of sales shall be retained for a period of three calendar years from the date of delivery of the hearing aid(s).

*History Note: Authority G.S. 93D 3(c);*

*Eff. April 23, 1976;*

*Amended Eff. January 1, 1992; May 1, 1988;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

#### **21 NCAC 22I .0108 CALIBRATION CHECK FOR AUDIOMETERS**

(a) All audiometers used in the fitting and selling of hearing aids shall have an annual calibration check and be recalibrated, if necessary, in accordance with the standards cited in Rule .0010 of this Subchapter.

(b) Whenever any individual applies for issuance or renewal of a license or an apprentice registration certificate, the Board shall require proof of audiometer calibration within the 12 consecutive months preceding such application.

(c) If any individual applying for annual renewal of a license provides the Board with an affidavit from the applicant that the applicant is not engaged in or being compensated for any activity requiring a North Carolina license to fit and sell hearing aids, the Board shall waive the annual renewal requirement cited in Paragraph (b), for up to three consecutive renewal years. If granted this waiver, the individual shall not engage in or be compensated for any activity requiring a North Carolina license to fit and sell hearing aids until the individual has furnished the Board with proof of audiometer calibration occurring within the preceding 12 consecutive months.

*History Note: Authority G.S. 93D 3(c);*

*Eff. April 23, 1976;*

*Amended Eff. March 1, 1996; April 1, 1989; May 1, 1988;*



*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

#### **21 NCAC 22I .0109 APPROVAL OF CALIBRATORS**

The Board shall not accept calibration records from any individual or calibration center unless such individual or center is registered with the Board and has performed the calibration in accordance with Rule .0010 of this Subchapter. Manufacturers of audiometers may calibrate without registering with the Board. A list of registered individuals and centers, as well as the form used to apply to become a registered calibrator, may be obtained from the office of the Board.

*History Note: Authority G.S. 93D 3(c);  
Eff. April 23, 1976;  
Amended Eff. March 1, 1996; May 1, 1988;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

#### **21 NCAC 22I .0110 STANDARDS FOR AUDIOMETERS**

All audiometers used for fitting and selling hearing aids shall be in calibration according to the standards contained in the ANSI S3.6 1969 specifications for audiometers which are herein adopted by reference, in accordance with G.S. 150B 14 (b).

*History Note: Authority G.S. 93D 3(c); 150B 14;  
Eff. April 23, 1976;  
Amended Eff. May 1, 1988;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

#### **21 NCAC 22I .0111 SYMBOLS FOR AUDIOGRAMS**

- (a) The Board recommends that the following standard symbols be used in recording hearing thresholds:
- (1) Right ear unmasked will be denoted as follows:
    - (A) air a small circle;
    - (B) bone a 45 degree angle pointing left.
  - (2) Left ear unmasked will be denoted as follows:
    - (A) air a small "x";
    - (B) bone a 45 degree angle pointing right.
  - (3) Right ear masked will be denoted as follows:
    - (A) air a small triangle;
    - (B) bone a single bracket open on the right.
  - (4) Left ear masked will be denoted as follows:
    - (A) air a small square;
    - (B) bone a single bracket open on the left.
  - (5) No response for the right ear at the maximum output of the audiometer will be denoted by a small arrow pointing southwest which is attached to the corresponding unmasked and masked symbols.
  - (6) No response for the left ear at the maximum output of the audiometer will be denoted by a small arrow pointing southeast which is attached to the corresponding unmasked and masked symbols.
  - (7) An asterisk will denote the contralateral ear masked.
  - (8) A capital "S" will denote sound field responses.
- (b) In all cases where the symbols listed in this Rule are not used, a symbol key shall be included on the audiogram form.

*History Note: Authority G.S. 93D 3(c);  
Eff. April 23, 1976;  
Amended Eff. May 1, 1988;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

### **21 NCAC 22I .0112 DISPLAY OF PRINTED CERTIFICATES**

Pursuant to G.S. 93D 12, all licensees and registered apprentices shall have a street address, located within the State of North Carolina, at which they display their license or apprentice registration certificate. In addition, all licensees and registered apprentices shall carry with them a copy of their license or apprentice registration certificate, or their pocket identification card issued by the Board, when doing business which takes them outside of their offices.

*History Note: Authority G.S. 93D 3(c); 93D 12;*

*Eff. April 23, 1976;*

*Amended Eff. May 1, 1988;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

### **21 NCAC 22I .0113 LOCATION FOR PROVISION OF SERVICE**

(a) Service after sale is a consumer's right and all licensees and registered apprentices shall furnish to each hearing aid purchaser, in writing, at least one business address within the State of North Carolina where service and fulfillment of guarantees can be obtained. This information shall be given to the purchaser by the time of delivery of the hearing aid(s).

(b) A post office box shall not suffice for the business address referred to in Paragraph (a) of this Rule and the address of any hearing aid manufacturer, distributor, or repair facility, located outside the State of North Carolina, shall not suffice for this required address. In addition, the address of any hearing aid manufacturer or repair facility within the State of North Carolina shall not suffice for the referenced address, unless the licensee or registered apprentice who is the seller of the hearing aid(s) is also the owner or an employee of such facility.

*History Note: Authority G.S. 93D 3(c);*

*Eff. April 23, 1976;*

*Amended Eff. May 1, 1988;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

### **21 NCAC 22I .0114 CHANGE OF ADDRESS**

All individuals regulated by the Board shall provide the Board with current address information by completing the online address change form available on the Board's website ([www.nchalb.org](http://www.nchalb.org)) within 14 days of any change in mailing address or name and street address of any business within the State of North Carolina. Failure to do so may result in disciplinary action after proper notice and hearing.

*History Note: Authority G.S. 93D-3(c); 93D-10; 93D-13*

*Eff. April 23, 1976;*

*Amended Eff. February 1, 1996; May 1, 1988;*

*Recodified from 21 NCAC 22F .0118 Eff. May 1, 2013;*

*Amended Eff. December 1, 2014;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

## **SUBCHAPTER 22J CODE OF ETHICS**

### **21 NCAC 22J .0102 EMPLOYMENT OF UNQUALIFIED PERSONS**

It shall be unethical to employ directly or indirectly any unqualified person to perform in a capacity regulated by Chapter 93D of the General Statutes of North Carolina.

*History Note: Authority G.S. 93D 3(c);*

*Eff. April 23, 1976;*

*Amended Eff. May 1, 1988;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

### **21 NCAC 22J .0103 ADVERTISING**

It shall be unethical to perform any of the following acts:

- (1) To advertise a particular model, type, or kind of hearing aid for sale when purchasers or prospective purchasers responding to such advertisements cannot have it demonstrated to them or cannot purchase the advertised hearing aid from the licensee or registered apprentice;
- (2) To advertise that a product is offered for sale at a special or reduced price, or words of similar meaning such as "sale price," when, within the past six months from the date of the advertisement, less than 50 percent of all sales of that specific model of the product were sold at a price higher than the special or reduced price;
- (3) To advertise a testimonial or endorsement by a living person unless the advertisement:
  - (a) contains the actual full name of the person directly following the quote or directly under any picture,
  - (b) lists the person's city and state of residence, and
  - (c) discloses whether the person making the endorsement or testimonial received compensation for making the endorsement or testimonial;
- (4) To advertise titles or credentials by the use of initials unless the meaning of the initials are written out in the advertisement; or
- (5) To advertise using words of comparison or performance specifications not based on verifiable data (for example, lowest price, MSRP, highest quality, fits up to 35dB hearing loss).

*History Note: Authority G.S. 93D 3(c); 93D 13(a);*

*Eff. April 23, 1976;*

*Amended Eff. April 1, 2013; May 1, 1988;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

### **21 NCAC 22J .0105 DEFAMATION OF COMPETITORS**

It shall be unethical to defame competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, or questioned credit standing or competency, or to falsely disparage the products of competitors in any respect.

*History Note: Authority G.S. 93D 3(c);*

*Eff. April 23, 1976;*

*Amended Eff. May 1, 1989; May 1, 1988;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

### **21 NCAC 22J .0107 PRICES**

It shall be unethical to quote prices of a competitor without disclosing that they may not be the actual current prices charged by the competitor.

*History Note: Authority G.S. 93D 3(c); 93D 13(a);*

*Eff. April 23, 1976;*

*Amended Eff. May 1, 1988;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

### **21 NCAC 22J .0108 USE OF TRADEMARKS**

It shall be unethical to imitate, copy, or otherwise simulate the trademarks, trade names, service marks, brands, or labels of competitors for the purpose of misleading or deceiving consumers.

*History Note: Authority G.S. 93D 3(c); 93D 13(a);  
Eff. April 23, 1976;  
Amended Eff. May 1, 1988;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

### **21 NCAC 22J .0109 OBTAINING INFORMATION ABOUT COMPETITORS**

It shall be unethical to obtain information concerning the business of a competitor by bribery of an employee or agent of such competitor, by misrepresentations, or by any other unfair means.

*History Note: Authority G.S. 93D 3(c);  
Eff. April 23, 1976;  
Amended Eff. May 1, 1988;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

### **21 NCAC 22J .0110 INDUCEMENTS TO PURCHASE**

It shall be unethical to directly or indirectly give, offer to give, permit, or cause to be given money or anything of value to any person who advises another in a professional capacity, for the purpose of diverting or influencing the freedom of choice of the consumer in the selection of a source for the fitting and selling of hearing aids.

*History Note: Authority G.S. 93D 3(c);  
Eff. April 23, 1976;  
Amended Eff. May 1, 1988;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

### **21 NCAC 22J .0114 FALSE OR CONCEALED INFORMATION**

It shall be unethical to make false statements or representations to the Board or to willfully conceal information from the Board in connection with the issuance, reinstatement, reissuance, replacement, or renewal of a license or an apprentice registration certificate, including information as to whether any registered apprentice has satisfied or complied with the apprenticeship requirements.

*History Note: Authority G.S. 93D 3(c); 93D 13(a);  
Eff. May 1, 1988;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

### **21 NCAC 22J .0115 FAILURE TO GIVE NOTICE/RIGHT TO CANCEL SALE/OFF PREMISES SALES**

It shall be unethical to violate any of the provisions of G.S. 14 401.13, which makes it a criminal violation to fail to give a right to cancel in off premises sales, or of 16 C.F.R. ' 429.1, which requires a cooling off period for door to door sales.

*History Note: Authority G.S. 14 401.13; 93D 3; 93D 13; 16 C.F.R. 429.1;  
Eff. January 1, 1992;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

## **21 NCAC 22J .0116 SCOPE OF PRACTICE**

It shall be unethical for a licensee or apprentice to perform services as set forth in G.S. 93D-1.1 if the licensee or apprentice has not been trained for the specific service.

*History Note: Authority G.S. 93D-1.1; 93D-3; 93D-9; 93D-13;  
Temporary Adoption Eff. February 28, 2014;  
Eff. January 1, 2015;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

## **SUBCHAPTER 22L – ADMINISTRATIVE HEARINGS AND DISCIPLINE**

### **21 NCAC 22L .0101 COMMITTEE ON INVESTIGATIONS**

(a) The Board President shall appoint two Board members for a standing Committee on Investigations. The Committee on Investigations shall investigate complaints submitted to the Board, unless administratively closed as described in Paragraph (d) of this Rule.

(b) The complainant shall submit a signed Board-approved complaint form set forth in this Rule. The complaint form is available on the Board website ([www.nchalb.org](http://www.nchalb.org)) or by contacting the Board office. The complaint form requires the following:

- (1) the complainant first and last name;
- (2) the complainant address;
- (3) the complainant phone number;
- (4) the licensee, apprentice, or registered sponsor first and last name;
- (5) the licensee, apprentice, or registered sponsor business address;
- (6) the nature of the complaint; and
- (7) the complainant signature and attestation of truthfulness.

(c) The Board shall not respond to or investigate anonymous complaints or inquiries.

(d) The Board staff shall administratively close:

- (1) any complaint anonymously submitted;
- (2) a complaint that alleges an advertising violation of 21 NCAC 22J .0103 that occurred more than one year prior to notifying the Board of the alleged violation;
- (3) a complaint withdrawn by the complainant at any stage of the investigation; or
- (4) incomplete forms. The Board staff shall return incomplete forms to the complainant, if a complainant is listed on the incomplete form.

(e) After a review of a complaint, the Committee on Investigations shall:

- (1) recommend to the Board a finding that there is no probable cause to believe a violation of the law or rules exists and close the complaint when the Board finds that there is no probable cause to believe a violation of the law or rules exists. The Committee shall send a letter to the complainant stating the same. This letter is not a public record pursuant to G.S. 93D-13(c);
- (2) serve the licensee, apprentice, or registered sponsor with a written explanation of the charges if there is evidence that probable cause of a violation exists;
- (3) hire an investigator or such persons as it deems necessary to determine whether there is probable cause to believe a violation exists in order to support formal disciplinary action against a licensee, apprentice, or registered sponsor;
- (4) subpoena persons to provide the Committee with sworn testimony or documents, provided that the subpoena is signed by the President or Secretary-Treasurer of the Board; or
- (5) make inquiries designed to assist the Committee in its review of matters under investigation.

(f) The respondent shall respond in writing within 20 days of receipt of the notification of charges.

(g) The Committee may offer the complainant a summary of the response. The Committee shall make this decision on a case-by-case basis, considering the nature of the complaint and the response.

(h) The Committee shall offer the parties an opportunity to present oral statements to the Committee after the response is received from the respondent, if the Committee determines that further information is required from the complainant or respondent. Neither party shall be compelled to attend.

- (i) With assistance from the Board's legal counsel, the Committee shall determine the validity and merit of the charges, and whether the accused party has violated any standard of conduct that would justify a disciplinary action based upon the grounds as specified in G.S. 93D 13 or this Chapter.
- (j) The Committee on Investigations shall present its findings and recommendation to the Board, including proposed discipline, if any, but shall not identify the parties to the complaint to the full Board except by descriptive titles, such as licensee, apprentice, sponsor, and consumer.
- (k) The Board may find no probable cause for disciplinary action and dismiss the charges. The Committee on Investigations shall notify the parties of the Board action.
- (l) The Board may find no probable cause for disciplinary action but issue a letter of caution to the respondent.
- (m) The Board may find probable cause for disciplinary action and serve the respondent with a private reprimand. The private reprimand letter is not a public record pursuant to G.S. 93D-13(c). The Board shall deem the private reprimand accepted as formal discipline in the matter unless the respondent submits a refusal to accept the private reprimand, which shall:
  - (1) be in writing, addressed to the Committee on Investigations;
  - (2) be filed with the Board staff within 20 days after service of the private reprimand; and
  - (3) include a request for a contested case hearing in accordance with 21 NCAC 22L .0103.
- (n) The Board may find probable cause for disciplinary action and authorize the Committee on Investigations, by and through the Board's legal counsel, to undertake negotiations with the respondent to settle the matter without a hearing when such settlement accomplishes the Board's duty to protect the consuming public.
- (o) If the Board and respondent fail to settle the matter under Paragraph (n) of this Rule, the Board shall:
  - (1) serve a notice of hearing on the accused party as required by G.S. 150B, Article 3A., which may also be released to any requesting member of the public pursuant to G.S. 93D-13(c);
  - (2) designate a presiding officer for the contested case; and
  - (3) conduct a hearing in accordance with the rules of this Subchapter.

*History Note: Authority G.S. 93D 3; 93D-13; 150B 38;*

*Eff. January 1, 1992;*

*Amended Eff. December 1, 2013; February 1, 2010; April 1, 1996;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016;*

*Amended Eff. October 1, 2016.*

## **21 NCAC 22L .0102 RIGHT TO HEARING**

When the Board acts or proposes to act, other than in rule making or declaratory ruling proceedings, in a manner which will affect the rights, duties, or privileges of a specific, identifiable person, such person has the right to an administrative hearing. When the Board proposes to act in such manner, it shall give all such affected persons notice of their right to a hearing by mailing by certified mail to them at their last known address a notice of the proposed action and a notice of a right to a hearing.

*History Note: Authority G.S. 93D 3; 150B 38;*

*Eff. January 1, 1992;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

## **21 NCAC 22L .0103 REQUEST FOR HEARING**

- (a) An individual who cannot resolve a matter with the Board related to rights, duties, or privileges that have been affected by the Board's administrative action may file a formal request for a hearing.
- (b) The request shall bear the notation: REQUEST FOR ADMINISTRATIVE HEARING and contain the following:
  - (1) Name and address of the petitioner;
  - (2) A statement of the action taken by the Board which is challenged;
  - (3) A statement of the way in which the petitioner has been aggrieved; and
  - (4) A specific statement of request for a hearing.

*History Note: Authority G.S. 93D 3; 150B 38;*

*Eff. January 1, 1992;*

*Amended Eff. December 1, 2013;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

#### **21 NCAC 22L .0104 GRANTING OR DENYING HEARING REQUESTS**

- (a) The Board shall grant a request for a hearing if it determines that the party requesting the hearing is a "person aggrieved" within the meaning of G.S. 150B 2(6).
- (b) Approval of a request for a hearing will be signified by the issuing of a notice as required by G.S. 150B 38(b) and explained in Rule .0105 of this Subchapter.
- (c) The denial of request for a hearing shall be issued no later than 60 days after the submission of the request. The denial shall contain a statement of the reasons for the denial of the request.

*History Note: Authority G.S. 93D 3; 150B 38;  
Eff. January 1, 1992;  
Amended Eff. December 1, 2013;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

#### **21 NCAC 22L .0105 NOTICE OF HEARING**

- (a) The Board shall serve the party or parties in a contested case a notice of hearing not less than 30 days before the hearing. The notice shall include:
  - (1) A statement of the date, hour, place, and nature of the hearing;
  - (2) A reference to the particular sections of the statutes and rules involved;
  - (3) A short and plain statement of the facts alleged; and
  - (4) the name, position, address and telephone number of a person at the office of the Board to contact for further information on the hearing process.
- (b) The Board shall serve the notice of hearing on all parties in accordance with G.S. 1A 1, Rule 4(j) or G.S.93D-10.
- (c) If the Board determines that the public health, safety or welfare requires such action, it may issue an order summarily suspending a license or registration. Upon service of the order, the licensee or registrant to whom the order is directed shall immediately cease fitting and selling hearing aids in North Carolina. The Board shall serve a notice of hearing following service of the order. The suspension shall remain in effect until the Board issues a final agency decision in accordance with Rule .0115 of this Subchapter.

*History Note: Authority G.S. 93D 3; 93D 13; 150B 3(c); 150B 38; 150B-42;  
Eff. January 1, 1992;  
Amended Eff. December 1, 2013; March 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

#### **21 NCAC 22L .0106 PRESIDING OFFICER**

For each contested case, the Board shall designate one or more of its members as the presiding officer, unless the majority of the Board elects to apply to the Office of Administrative Hearings for the designation of an administrative law judge to hear a case pursuant to G.S. 150B 40(e).

*History Note: Authority G.S. 93D 3; 150B 38; 150B 40;  
Eff. January 1, 1992;  
Amended Eff. December 1, 2013; March 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

#### **21 NCAC 22L .0107 PETITION FOR INTERVENTION**

- (a) A person desiring to intervene in a contested case must file a written petition with the Board's office. The request must bear the notation: PETITION TO INTERVENE IN THE CASE OF (Name of Case).
- (b) The petition must include the following information:

- (1) the name and address of petitioner;
  - (2) the business or occupation of petitioner, where relevant;
  - (3) a full identification of the hearing in which petitioner is seeking to intervene;
  - (4) the statutory or non statutory grounds for intervention;
  - (5) any claim or defense in respect of which intervention is sought; and
  - (6) a summary of the arguments or evidence petitioner seeks to present.
- (c) If the Board determines to allow intervention, notice of that decision will be issued promptly to all parties and to the petitioner. In cases of discretionary intervention, such notification will include a statement of any limitations of time, subject matter, evidence, or whatever else is deemed necessary that are imposed on the intervenor.
- (d) If the Board's decision is to deny intervention, the petitioner shall be notified promptly. Such notice shall be in writing, identifying the reasons for the denial, and shall be issued to the petitioner and all parties.

*History Note: Authority G.S. 93D 3; 150B 38;*

*Eff. January 1, 1992;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

#### **21 NCAC 22L .0108 TYPES OF INTERVENTION**

- (a) Intervention of Right. A petition to intervene as of right, as provided in the North Carolina Rules of Civil Procedure, Rule 24, will be granted if the petitioner meets the criteria of that rule and the petition is timely.
- (b) Permissive Intervention. A petition to intervene permissively as provided in the North Carolina Rules of Civil Procedure, Rule 24, will be granted if the petitioner meets the criteria of that rule and the Board determines that:
- (1) There is sufficient legal or factual similarity between the petitioner's claimed rights, privileges, or duties and those of the parties to the hearings; and
  - (2) Permitting intervention by the petitioner as a party would aid the purpose of the hearing.
- (c) Discretionary Intervention. The Board may allow discretionary intervention, with whatever limits and restrictions are deemed appropriate.

*History Note: Authority G.S. 93D 3; 150B 38;*

*Eff. January 1, 1992;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

#### **21 NCAC 22L .0109 INFORMAL PROCEDURES**

- (a) The presiding officer may direct the parties to conduct an informal pre hearing conference, or the parties may request such a conference, which shall be scheduled at a time and place agreed upon by the parties. If the parties do not agree on the time and place of the pre hearing conference, the presiding officer may set the time and place of the pre hearing conference, giving reasonable written notice to all parties in the proceedings.
- (b) At the discretion of the presiding officer, all or part of the pre hearing conference may be conducted by telephone or other electronic means, if each party has an opportunity to participate while the conference is taking place.
- (c) The parties shall conduct the pre hearing conference to deal with, where applicable:
- (1) exploring settlement possibilities;
  - (2) formulating, clarifying, and simplifying the issues to be contested at the hearing;
  - (3) preparing stipulations of facts or findings;
  - (4) ruling on the identity and number of witnesses;
  - (5) determining the extent to which direct evidence, rebuttal evidence, or cross examination will be presented in written form and the extent to which telephone, video tape, or other electronic means will be used as a substitute for proceedings in person;
  - (6) determining what depositions, discovery orders, or subpoenas will be needed;
  - (7) determining the need for consolidation of cases or joint hearing;
  - (8) determining the order of presentation of evidence and cross examination; and
  - (9) considering any other matters which may promote the prompt, orderly, and efficient disposition of the case.

*History Note: Authority G.S. 93D 3; 150B 38;*



*Eff. January 1, 1992;*  
*Amended Eff. December 1, 2013; March 1, 1996;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

#### **21 NCAC 22L .0110 DISQUALIFICATION OF BOARD MEMBERS**

- (a) Self disqualification. If for any reason a board member determines that personal bias or other factors render that member unable to perform all duties in an impartial manner, that Board member shall voluntarily decline to participate in the final decision.
- (b) Request for Disqualification. If for any reason any party in a contested case believes that a Board member is personally biased or otherwise unable to perform all duties in an impartial manner, the party shall make a written request that the Board member be disqualified. The request shall be accompanied by a sworn, notarized affidavit. The title of such affidavit shall bear the notation: AFFIDAVIT IN SUPPORT OF DISQUALIFICATION OF BOARD MEMBER IN THE CASE OF (Name of Case).
- (c) Contents of Affidavit. The affidavit shall state all facts the party deems to be relevant to the disqualification of the Board member.
- (d) Timeliness of Affidavit. The affidavit shall be considered timely if it is filed at least 10 days before commencement of the hearing or if it is filed at the first opportunity after the party becomes aware of facts which give rise to a reasonable belief that a Board member may be disqualified under this Rule.
- (e) The Board shall determine the matter as a part of the record in the case in accordance with G.S. 150B-40.
- (f) In the event of disqualification, the disqualified member shall not participate in the hearing, deliberations, or decision.

*History Note: Authority G.S. 93D 3; 150B 38; 150B 40;*  
*Eff. January 1, 1992;*  
*Amended Eff. December 1, 2013; March 1, 1996;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

#### **21 NCAC 22L .0111 FAILURE TO APPEAR**

- (a) Continuances and adjournments shall be granted at the discretion of the presiding officer.
- (b) If a party fails to appear at a hearing after proper notice, the presiding officer shall determine whether to continue the hearing or proceed with the hearing and allow the agency to make its decision in the absence of the party.

*History Note: Authority G.S. 150B 38; 150B 40;*  
*Eff. January 1, 1992;*  
*Amended Eff. December 1, 2013; March 1, 1996;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

#### **21 NCAC 22L .0112 WITNESSES**

Any party may be a witness and may present witnesses on the party's behalf at the hearing. All oral testimony at the hearing shall be under oath or affirmation and shall be recorded or transcribed. At the request of a party or upon the Board's own motion, the presiding officer may exclude witnesses from the hearing room so that they cannot hear the testimony of other witnesses.

*History Note: Authority G.S. 150B 38; 150B 40;*  
*Eff. January 1, 1992;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

#### **21 NCAC 22L .0113 SUBPOENAS**

- (a) A party in a contested case may request a subpoena. The request shall:
  - (1) be made in writing to the Board;

- (2) include a particularized description of any books, papers, records or objects the recipient shall produce pursuant to the subpoena;
  - (3) include the full name and home or business address of the person to be subpoenaed; and
  - (4) include the date, time, and place for responding to the subpoena.
- (b) The Board-designated presiding officer for the contested case shall issue the requested subpoena in duplicate within five days of receipt of the request. A subpoena shall include:
- (1) the caption of the case;
  - (2) the name and address of the person subpoenaed;
  - (3) the date, hour and location to appear;
  - (4) a particularized description of any books, papers, records or objects the recipient shall produce pursuant to the subpoena;
  - (5) the identity of the party requesting the subpoena;
  - (6) the date of issuance of the subpoena;
  - (7) the signature of the presiding officer;
  - (8) a return of service form; and
  - (9) instructions for objecting to the subpoena.
- (c) The party requesting the subpoena shall provide a copy of the issued subpoena to all parties in the contested case at the time the subpoena is served on the recipient.
- (d) A subpoena shall be served in accordance with G.S. 1A 1, Rule 45. The person serving the subpoena shall return one copy of the subpoena with a completed return of service form to the Board.
- (e) The completed return of service form shall provide:
- (1) the name and capacity of the person serving the subpoena;
  - (2) the date on which service was made;
  - (3) the person on whom service was made;
  - (4) the manner in which service was made; and
  - (5) the signature of the person effectuating service.
- (f) A recipient of a subpoena issued by the Board may file a written objection to the subpoena with the presiding officer. The recipient shall serve a copy of the objection on the party requesting the subpoena. The objection may be made on any of the following grounds:
- (1) the subpoena requests evidence not related to a matter at issue;
  - (2) the subpoena does not describe with sufficient particularity the evidence to produce;
  - (3) the subpoena fails to allow reasonable time for compliance;
  - (4) the subpoena requires disclosure of privileged or other protected matter and no exception or waiver applies to the privilege or protection;
  - (5) the subpoena subjects a person to an undue burden or expense;
  - (6) the subpoena is otherwise unreasonable or oppressive; or
  - (7) the subpoena is procedurally defective.
- (g) The party requesting the subpoena, in such time as may be granted by the Board, may file a written response to the objection with the presiding officer, and shall serve the objecting recipient and all parties with a copy of the written response.
- (h) The presiding officer shall issue a written notice to all parties of an open hearing, scheduled as soon as practicable, during which evidence regarding the objection and response may be presented,
- (i) The presiding officer shall issue a written decision based upon the factors required by G.S. 150B-39(c). A copy of the decision shall be issued to all parties and made a part of the record.

*History Note: Authority G.S. 1A-2; 93D 3; 150B 38; 150B 39; 150B-40;  
 Eff. January 1, 1992;  
 Amended Eff. December 1, 2013; March 1, 1996;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

## **21 NCAC 22L .0115 PROPOSALS FOR DECISIONS AND FINAL DECISION**

- (a) When the Board conducts the contested case hearing, the Board shall render a final agency decision within 60 days after the hearing if no transcript is requested by the Board or either party, or within 45 days after receipt of a transcript of the hearing. The parties may submit proposed decisions within 20 days after the hearing or receipt of the transcript, whichever is later.
- (b) When an administrative law judge conducts the hearing, a proposal for decision shall be rendered in accordance with G.S. 150B-40(e). The parties may file written exceptions to the proposal for decision and submit their own proposed findings of fact and conclusions of law. The exceptions and alternative proposals shall be filed within 10 days after the party has received the proposal for decision as drafted by the administrative law judge.
- (c) Any exceptions to the procedure during the hearing, the handling of the hearing by the administrative law judge, rulings on evidence, or any other matter shall be written and refer specifically to pages of the record or otherwise identify the occurrence to which exception is taken. The exceptions shall be filed with the Board within 10 days of the receipt of the proposal for decision. The written exceptions shall bear the notation: EXCEPTIONS TO THE PROCEEDINGS IN THE CASE OF (Name of Case).
- (d) Any party may present oral argument on written exceptions to the Board upon request. The request shall be included with the written exceptions.
- (e) Upon receipt of request for oral argument on written exceptions, notice shall be issued by the Board to all parties designating the time and place for such oral argument.
- (f) The Board may adopt the administrative law judge's proposal for decision or may modify it as the Board deems necessary. The Board shall render the final agency decision within 60 days after the next regularly scheduled Board meeting following the deadline for receipt of the written exceptions or the hearing of oral arguments on written exceptions, whichever is later. The final agency decision rendered shall be part of the record and a copy thereof given to all parties.

*History Note: Authority G.S. 93D 3; 150B 38; 150B 40;*

*Eff. January 1, 1992;*

*Amended Eff. December 1, 2013; March 1, 1996;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

## **21 NCAC 22L .0116 PUBLICATION OF DISCIPLINARY ACTIONS**

- (a) Formal disciplinary actions imposed by the Board shall be published on the Board's website ([www.nchalb.org](http://www.nchalb.org)) within 60 days of the final agency decision as follows:
- (1) Notice of a suspension of license or registration shall be posted on the website during the suspension period, including a link to a copy of the final agency decision;
  - (2) Notice of the reinstatement of a suspended license or registration shall be posted on the website for 90 days, including a link to the final agency decision for reinstatement;
  - (3) Notice of revocation of a license or registration shall be posted on the website for three years from the date of revocation, including a link to a copy of the final agency decision;
  - (4) The number of private reprimands issued by the Board and the nature of the violations shall be posted on the website for the current and previous fiscal year without identifying associated individual(s); and
  - (5) The number of suspensions and revocations shall be posted on the website for the current and previous fiscal year without reference to individuals receiving the discipline.
- (b) The content of a private reprimand shall not be released to any member of the public pursuant to G.S. 93D-13(c), but the existence of a private reprimand shall be reported in accordance with this Rule.
- (c) When responding to public information requests about disciplinary actions against a specific licensee, the Board shall issue a written response which shall identify:
- (1) any revocation of license since original license issued
  - (2) other disciplinary actions for the five year period preceding the request
  - (3) current status of license (active or expired).

*History Note: Authority G.S. 93D 3; 93D-13;*

*Eff. December 1, 2013;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*